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**Nov 10 2022**

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

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Opinion No.: 5891 (S.C. Ct. App. filed January 19, 2022)  
Appeal No.: 2022-000271

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Dale Brooks, Employee, .....Respondent,

v.

Benore Logistics Systems, Inc., Employer, and  
Great American Alliance Insurance Company, Carrier, ..... Petitioners.

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**MOTION FOR LEAVE TO FILE  
AMICUS BRIEF**

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Pursuant to Rules 213 and 240, SCACR, the South Carolina Employers' Advocacy Association hereby moves this Court to for leave to file an amicus brief on the issue of whether the Court of Appeals correctly determined that. The South Carolina Employers' Advocacy Association represents South Carolina employers of all types on workers' compensation issues across the state, providing education to members, and participating as an amicus in litigation affecting employers in workers' compensation cases. In the above-captioned case, the South Carolina Employers' Advocacy Association has a keen interest in ensuring that appellate courts properly apply S.C. Code Ann. § 42-1-172, keeping in mind that the South Carolina Workers' Compensation Act ("Act") places the burden of proving all elements of a claimant's right to compensation on the claimant, *see Crisp v. SouthCo, Inc.*, 401 S.C. 627, 641, 738 S.E.2d 835, 842 (2013), *quoting Clade v. Champion Labs.*, 330 S.C. 8, 11, 496 S.E.2d 856, 848 (1998), and

recognizing that the Act itself embodies a compromise, or a balancing of interests between injured workers, employers and society at large. *Cook v. Mack's Transfer & Storage*, 291 S.C. 84, 87, 352 S.E.2d 296, 298 (Ct. App. 1986), *citing Parker v. Williams & Madjanik, Inc.*, 275 S.C. 65, 70, 267 S.E.2d 524, 526 (1980); *see also Wigfall v. Tideland Utils.*, 354 S.C. 100, 117, 580 S.E.2d 100, 108 (2003) (“Worker’s compensation laws are a classic example of this legislative balancing of the equities”).

If accepted, the Amicus Brief of the South Carolina Employers’ Advocacy Association will address Issue II raised in Petitioners Benore Logistics Systems and Great American Alliance Insurance Company’s Petition for Writ of Certiorari, *i.e.*, whether the Court of Appeals misconstrued S.C. Code Ann. § 42-1-172 (2007) by reliving the claimant of the burden of proving all elements of his claim for a repetitive trauma injury?

For the reasons stated above, the South Carolina Employers’ Advocacy Association respectfully requests that this Court accept the attached Amicus Brief of the South Carolina Employers’ Advocacy Association for consideration in the above-referenced appeal.

Respectfully submitted,

November 10, 2022

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