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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

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

Dale Brooks, Employee,Respondent,

v.

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

**MOTION FOR LEAVE
TO PARTICIPATE IN ORAL ARGUMENT**

Pursuant to Rules 213 and 240, SCACR, amicus the South Carolina Employers' Advocacy Association ("SCEAA") hereby moves this Court to for leave to participate in oral argument, which has been tentatively scheduled for October 24 or 25, 2023. SCEAA 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, SCEAA 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 granted permission to actively participate in argument, SCEAA will address the issue of whether the Court of Appeals misconstrued S.C. Code Ann. § 42-1-172 (2007) by relieving the claimant of the burden of proving all elements of his claim for a repetitive trauma injury.

For the reasons stated above, SCEAA respectfully requests that this Court allow it to participate in oral argument in the above-referenced appeal.

Respectfully submitted,

July 31, 2023

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