

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
T. Scott Beck, Commissioner

Workers' Compensation File No. 2118696.

**Serge R. Wandji,
Appellant/Claimant,**

v.

**The Regional Medical Center, Self-Insured Employer, Through Antum Risk,
Respondent/Defendant.**

**APPELLANT'S OBJECTION AND RESPONSE TO RESPONDENTS' JULY 22, 2025
RULE 208(B)(7) LETTER**

Appellate Case No. 2024-001935

To the Honorable Court:

Appellant, appearing pro se, respectfully submits this response to the Respondents' July 22, 2025, letter filed pursuant to Rule 208(b)(7), SCACR, which cites the unpublished administrative decision *Austin Bischoff v. S.C. Department of Education*, 2023 WL 1151704 (S.C. Admin. Law Ct. Apr. 10, 2025). As an unpublished ruling, *Bischoff* carries no precedential value under Rule 268(d)(2), SCACR, and should not be relied upon as controlling authority in this appeal. Respondents now assert its relevance to their Final Brief filed on July 15, 2025.

While Rule 208(b)(7) permits notification of new legal authority discovered after the filing of a brief, Appellant respectfully objects to the timing and substance of Respondents' submission and requests that the Court disregard the letter to the extent it is used as a vehicle for post-brief advocacy.

I. The Timing of the Filing Undermines the Purpose of Rule 208(b)(7)

Rule 208(b)(7) is designed to permit parties to notify the appellate court of significant authorities not previously available at the time of briefing. Here, *Bischoff* was issued on April 10, 2025, more than three months prior to the filing of Respondents' Final Brief. The case was publicly available and easily discoverable through routine legal research. Respondents have not offered a clear justification for the timing of this submission beyond stating that the authority "just came to their attention." While that may be the case, the absence of any mention of *Bischoff* in their July 15, 2025, Final Brief, despite its public availability since April, creates potential concerns regarding the procedural timing of its disclosure. This post-brief invocation of unpublished

authority, without accompanying explanation for the delay, may reasonably invite scrutiny as to whether its introduction is consistent with the spirit and intended use of Rule 208(b)(7), SCACR. In effect, this filing appears to operate less as a neutral notification and more as an untimely attempt to reframe or bolster argument outside the permissible briefing schedule. This late-stage maneuver is not isolated; it fits a pattern.

II. Procedural History Regarding Evidence Disputes and Timing

Appellant further observes that the timing of this post-brief submission aligns with prior procedural efforts by Respondents to challenge the inclusion of key evidence in the record. Specifically, Respondents objected on three separate occasions to the inclusion of Dr. Samies' sworn deposition testimony, a central piece of evidence which forms the basis for this appeal, once before the Workers' Compensation Commission and twice before this Court on appeal. Each objection at the appellate level was overruled, and this Court explicitly ordered that Dr. Samies' deposition remain part of the official Record on Appeal, as it had been in the lower court.

In this context, the citation of a factually distinguishable, unpublished administrative decision at this late stage, following the submission of both parties' final briefs, raises reasonable concerns as to whether it serves a clarifying legal purpose or merely introduces additional complexity into an already fully briefed matter. Given the current posture of the case, the Appellant respectfully submits that this filing should not be accorded persuasive weight in evaluating the issues properly before the Court.

III. The Authority Cited is Legally and Factually Distinguishable.

Even if the Court were to consider the cited authority, *Bischoff* is not relevant to the issues before this Court. That decision arises from a distinct administrative law context and appears to involve procedural rulings and agency deference, not claims of workers' compensation as set forth in Appellant's Briefs.

To further clarify, the central issue on appeal in this case is the improper denial of Appellant's workers' compensation claim, including the mishandling of indisputable evidence that there was an outbreak of COVID-19 on Appellant's unit and throughout the hospital while he was working there as a nurse, that Appellant cared for patients who were positive for COVID-19 on his unit, that Appellant was repeatedly exposed to the virus throughout the hospital during the month of August 2021, and that the Defendant's own star witnesses did not corroborate the defense's legal strategy; specifically, none testified that Appellant had reported any out-of-hospital exposure. The newly discovered evidence, particularly the deposition of Dr. Samies, which was added to the Record on Appeal by Court order, further underscored the flawed evidentiary findings and legal errors at the Commission level. In contrast, *Austin Bischoff v. S.C. Department of Education*, 2023 WL 1151704, concerns the default administrative suspension of a professional license after the claimant failed to respond to mailed notices. That case pertains to notice and default procedure under administrative law, not workers' compensation eligibility, causation, or evidentiary rulings under Title 42. It is therefore legally and factually inapplicable and offers no persuasive value in resolving the issues before this Court.

IV. Conclusion and Request for Relief

For the foregoing reasons, Appellant respectfully requests that this Court:

1. Disregard Respondents' July 22, 2025 Rule 208(b)(7) letter to the extent it seeks to influence this Court's disposition of the appeal through new argument or supplemental authority filed well outside the applicable timeline; and
2. Consider the procedural history of this case, including repeated, failed efforts to exclude dispositive evidence, as part of the overall assessment of Respondents' current litigation posture.

Appellant submits that this case is now fully briefed and ready for disposition based on the properly filed record and arguments.

Respectfully submitted,

s/Serge Wandji
Pro Se Appellant
sergewandji@gmail.com
July 23, 2025