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**Dec 31 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM SOUTH CAROLINA WORKERS'  
COMPENSATION COMMISSION, APPELLATE PANEL

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Appellate Case No. 2025-000852

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Sharonda Love, Claimant.....Appellant,

v.

Fresenius Medical Care Holding, Employer,  
and American Casualty Co. of Reading, Pennsylvania, Carrier.....Respondents,

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**PETITION FOR REHEARING**

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Attorney for Appellant

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## **INTRODUCTION**

Appellant Sharonda Love, by and through counsel, respectfully petitions for rehearing pursuant to Rule 221(a), SCACR. Rehearing is requested for the narrow purpose of correcting the disposition in this matter.

On December 16, 2025, the Court entered an Order dismissing the appeal for lack of appellate jurisdiction because the admitted injury occurred April 21, 2006, and judicial review of Commission decisions for such injuries proceeds in the circuit court under S.C. Code Ann. § 42-17-60 (Supp. 2006). The Court further stated that “[t]he remittitur will be sent as provided by Rule 221(b), SCACR.”

Appellant does not seek rehearing of the Court’s conclusion that this Court lacks jurisdiction to decide the merits. Appellant seeks rehearing solely as to the remedy: the dismissal should be amended to an order transferring this matter to the circuit court, consistent with Rule 204, SCACR and controlling Court of Appeals precedent.

## **ORDER FOR WHICH REHEARING IS SOUGHT**

On December 16, 2025, the Court entered its Order providing, in relevant part: “We dismiss the appeal for lack of appellate jurisdiction. ... The remittitur will be sent as provided by Rule 221(b), SCACR.” (Exhibit A, Order at 1).

Appellant requests rehearing only to amend the disposition from dismissal to transfer.

## **STANDARD FOR REHEARING**

Rule 221(a), SCACR authorizes a petition for rehearing when the petition states with particularity the points of law or fact the Court has overlooked or misapprehended. Rule 221(a) further provides the petition shall be in accordance with Rule 240, SCACR.

Here, Appellant respectfully submits the Court overlooked or misapprehended the appropriate remedy in this posture: transfer to the circuit court rather than dismissal.

## **ARGUMENT**

### **I. The Court Correctly Identified the Proper Reviewing Forum, but Overlooked the Proper Remedy.**

The Court correctly held that it lacks appellate jurisdiction because the injury occurred on April 21, 2006 and the applicable judicial review statute required review in the circuit court. S.C. Code Ann. § 42-17-60 (Supp. 2006). Appellant does not contest this conclusion.

However, dismissal is not the only available disposition when an appeal is filed in the wrong forum. The remedy of transfer is recognized by the appellate rules and by this Court's precedent in the workers' compensation context. This petition seeks a rehearing limited to entry of the appropriate remedial order.

### **II. *Colonna* Confirms Transfer to Circuit Court is the Appropriate Disposition for Pre-July 1, 2007 Injuries Misfiled in the Court of Appeals.**

In *Colonna v. Marlboro Park Hospital*, the Court of Appeals addressed a workers' compensation appeal that, due to the injury date, belonged in the circuit court rather than the Court of Appeals. The Court explained the procedural disposition as follows: "Colonna appealed to this court, and we transferred her case to the circuit court pursuant to Rule 204, SCACR, because this case accrued prior to July 1, 2007." *Colonna v. Marlboro Park Hosp.*, 404 S.C. 537, 543, 745 S.E.2d 128, 132 (Ct. App. 2013) (relying on *Pee Dee Reg'l Transp. v. S.C. Second Inj. Fund*, 375 S.C. 60, 62, 650 S.E.2d 464, 465 (2007)).

This case presents the same jurisdictional posture identified by the Court's December 16, 2025 Order: Appellant's injury occurred April 21, 2006, and judicial review proceeds in the

circuit court under § 42-17-60 (Supp. 2006). Under *Colonna*, the appropriate disposition is transfer to the circuit court pursuant to Rule 204, SCACR.

**III. Transfer Promotes Orderly Administration of Justice and Avoids Unnecessary Forfeiture from a Correctable Filing Error.**

Amending the disposition to transfer serves practical and equitable interests consistent with the Court's own precedent.

First, transfer promotes judicial economy and orderly administration. The appeal has been docketed in this Court and presented in appellate posture. A transfer order directing transmission of the file to the proper circuit court allows the matter to be docketed and reviewed in the correct forum without duplicative effort.

Second, transfer avoids unnecessary forfeiture based solely on a correctable forum error. The Court has already held the proper forum is the circuit court. An amended order directing transfer is a narrow corrective action that honors the statutory scheme while ensuring the appeal may proceed in the proper reviewing court.

Third, transfer aligns with the remedial approach reflected in *Colonna* in the same workers' compensation context.

**CONCLUSION AND REQUESTED RELIEF**

For the foregoing reasons, Appellant respectfully requests that the Court grant rehearing and amend its December 16, 2025 Order as follows:

1. Maintain the Court's holding that it lacks appellate jurisdiction to decide the merits;
2. Modify the disposition from "dismissed" to "transferred," ordering that this matter be **TRANSFERRED** to the appropriate Court of Common Pleas (Circuit Court) for judicial review pursuant to S.C. Code Ann. § 42-17-60 (Supp. 2006), consistent with *Colonna* and Rule 204, SCACR; and

3. Direct the Clerk to transmit the appellate file and record to the appropriate circuit court for docketing and further proceedings.

Respectfully submitted,

*s/David V. Benson*

David V. Benson, S.C. Bar No. 660

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Attorney for Appellant

December 31, 2025  
Rock Hill, South Carolina

# The South Carolina Court of Appeals

Sharonda Love, Claimant, Appellant,

v.

Fresenius Medical Care Holding, Employer, and  
American Casualty Co. of Reading, Pennsylvania,  
Carrier, Respondents.

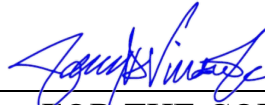
Appellate Case No. 2025-000852

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## ORDER

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This appeal arises out of an injury sustained by the appellant on April 21, 2006. We dismiss the appeal for lack of appellate jurisdiction. *See* S.C. Code Ann. §42-17-60 (Supp. 2006) (requiring claimants to appeal a decision of the Workers' Compensation Commission to the circuit court); Act No. 111, §30, 2007 S.C. Acts 599, 630-31 (providing the current version of §42-17-60 providing for appeals from the Workers' Compensation Commission directly to the Court of Appeals became effective on July 1, 2007); *Pee Dee Reg'l Transp. v. S.C. Second Inj. Fund*, 375 S.C. 60, 62, 650 S.E.2d 464, 465 (2007) ("The language of Act 111 is not ambiguous and clearly states that it applies only to injuries that occur on or after July 1, 2007."). The remittitur will be sent as provided by Rule 221(b), SCACR.



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FOR THE COURT

Columbia, South Carolina

cc:  
David Vance Benson, Esquire  
Nicolas Lee Haigler, Esquire

**FILED**  
**Dec 16 2025**

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Fresenius Medical Care Holding, Employer,  
and American Casualty Co. of Reading, Pennsylvania, Carrier..... Respondents.

**CERTIFICATE OF SERVICE**

I, attorney for Appellant, do hereby certify that I have caused a copy of the foregoing Petition for Rehearing to be served upon Nicholas L. Haigler, counsel for Respondent, via electronic service at the below address on this 31<sup>st</sup> day of December 2025.

**VIA E-MAIL:**

Nicholas L. Haigler, Esquire  
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Rock Hill, South Carolina  
December 31, 2025

Wednesday, December 31, 2025 at 8:58:41 PM Eastern Standard Time

**Subject:** Love v. Fresenius (2025-000852) - Petition for Rehearing (served 12/31/25)  
**Date:** Wednesday, December 31, 2025 at 8:49:36 PM Eastern Standard Time  
**From:** Zach Griffin <zach@elrodpope.com>  
**To:** nhaigler@robinsongray.com <nhaigler@robinsongray.com>  
**Priority:** High  
**Attachments:** image001.png, image002.png, image003.png, image004.png, image005.png, Love\_2025-000852\_Petition\_for\_Rehearing\_2025-12-31.pdf

Mr. Haigler,

Attached, please find Appellant's Petition for Rehearing in **Love v. Fresenius Medical Care Holding, Appellate Case No. 2025-000852**, served on December 31, 2025, pursuant to Rule 262 and the SCACR electronic service order.

Respectfully,

Zachary Griffin  
*on behalf of David V. Benson*



**Zachary D. Griffin**

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