

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APR 11 2017

APPEAL FROM SOUTH CAROLINA
WORKER'S COMPENSATION COMMISSION **S.C. SUPREME COURT**

Supreme Court Opinion No. 27708
(filed March 8, 2017)

HENTON T. CLEMMONS, JR.,
EMPLOYEE,.....PETITIONER,

v.

LOWE'S HOME CENTERS, INC.-HARBISON, EMPLOYER, AND
SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.,
CARRIER,.....RESPONDENTS.

**MOTION FOR LEAVE TO FILE
BRIEF ON BEHALF OF THE *AMICI CURIAE*
IN SUPPORT OF
PETITION FOR REHEARING
AND REQUEST FOR ORAL ARGUMENT**

The undersigned hereby respectfully requests leave to file an *Amici Curiae* Brief in support of the Petition for Rehearing filed by the Respondents in the above-referenced matter, based upon the following:

1. The Supreme Court issued Opinion No. 27708 in the above-referenced case signaling stark departures to well-settled legal precedent regarding the fundamental definition of the term "disability" as used in the Workers' Compensation Law; the role of the appellate courts in making findings of fact on appeal; and the authority of the Workers' Compensation Commission to consider medical evidence in the form of "whole person"

impairment ratings in the context of scheduled injury cases under S.C. Code Ann. § 42-9-30.

2. The Respondents, Lowe's Home Centers and Sedgwick Claims Management Services, have filed a Petition for Rehearing on numerous grounds upon which the undersigned concur and for which the undersigned propose to offer a unique perspective and argument.
3. The applicants for *Amici Curiae* status include:
 - a. The South Carolina Employers' Advocacy Association;
 - b. The South Carolina School Boards Insurance Trust;
 - c. The South Carolina Association of Counties;
 - d. The South Carolina Counties Workers' Compensation Trust;
 - e. The Municipal Association of South Carolina;
 - f. The South Carolina Municipal Insurance Trust;
 - g. The Palmetto Hospital Trust; and
 - h. The South Carolina Chamber of Commerce.
4. Each of these applicants for *Amici Curiae* status are significant stakeholders in the South Carolina Workers' Compensation system with an interest in, and unique perspective on, the interpretation and application of the South Carolina Workers' Compensation Act and will be directly impacted by the outcome of the current litigation.

Therefore, the undersigned respectfully request that leave be granted for the filing of a Brief in Support of the Petition for Rehearing on behalf of the

aforementioned applicants for *Amici Curiae* status, and that the *Amici Curiae* be granted leave to participate in oral arguments before the Court on said Petition.

Respectfully submitted,



Kirsten Leslie Barr, S.C. Bar No. 15525
Trask & Howell, LLC

763 Johnnie Dodds Blvd.

Mount Pleasant, South Carolina 29464

(843) 881-1027

Attorneys for the *Amici Curiae*,

The S.C. Employers' Advocacy Association;

The South Carolina School Boards Insurance Trust;

The South Carolina Association of Counties;

The S.C. Counties Workers' Compensation Trust;

The Municipal Association of South Carolina;

The South Carolina Municipal Insurance Trust;

The Palmetto Hospital Trust; and

The South Carolina Chamber of Commerce.

April 10, 2017

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM SOUTH CAROLINA
WORKER'S COMPENSATION COMMISSION

APR 11 2017

S.C. SUPREME COURT

Supreme Court Opinion No. 27708
(filed March 8, 2017)

HENTON T. CLEMMONS, JR.,
EMPLOYEE,.....PETITIONER,

v.

LOWE'S HOME CENTERS, INC.-HARBISON, EMPLOYER, AND
SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.,
CARRIER,.....RESPONDENTS.

PROOF OF SERVICE

The undersigned hereby certifies that the Motion for Leave to File *Amici Curiae* Brief and the Brief on Behalf of the *Amici Curiae* in support of Petition for Rehearing and Request for Oral Argument, was served this 10th day of April, 2017 by depositing same in the United States Mail, first class postage prepaid, addressed to the parties of record, as follows:

Preston F. McDaniel, Esq.
McDaniel Law Firm
1315 Elmwood Avenue
Columbia, SC 29201

Helen F. Hiser, Esq.
McAngus, Goudelock & Courie
P.O. Box 650007
Mt. Pleasant, SC 29465

Kelly F. Morrow, Esq.
McAngus, Goudelock & Courie
P.O. Box 12519
Columbia, SC 29211-2519

April 10, 2017

Kirsten Leslie Barr

Kirsten Leslie Barr, S.C. Bar No. 15525
Trask & Howell, LLC
763 Johnnie Dodds Blvd.
Mount Pleasant, South Carolina 29464
(843) 881-1027

Attorneys for the *Amici Curiae*,
The S.C. Employers' Advocacy Association;
The South Carolina School Boards Insurance Trust;
The South Carolina Association of Counties;
The S.C. Counties Workers' Compensation Trust;
The Municipal Association of South Carolina;
The South Carolina Municipal Insurance Trust;
The Palmetto Hospital Trust; and
The South Carolina Chamber of Commerce