



ATTORNEYS AT LAW

Reply To  
HELEN F. HISER  
Direct Dial: (843) 576-2930  
helen.hiser@mgclaw.com  
CHARLESTON

September 26, 2013

**Via Hand Delivery**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Post Office Box 11629  
Columbia, South Carolina 29211

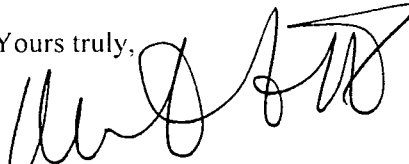
RE: Antonio Lazaro v. Burris Electric and CompTrust AGC of the Carolinas  
Date of Accident: July 6, 2007  
WCC File No.: 0710622  
Claim No.: S266-07-01390  
Our File No.: 20441.08051  
Case Tracking No.: 2011-192272

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Appellants' Memorandum of Law and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return the clocked-in copies via our courier.

If you have any questions, please contact me.

Yours truly,



Weston Adams, III

WAIII/rsd  
Enclosures

cc: Preston McDaniel, Esq.  
John E. Duncan, Esq.

**RECEIVED**  
SEP 26 2013  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

---

WCC File No. 0710622

---

RECEIVED

SEP 26 2013

SC Court of Appeals

Antonio Lazaro, by and  
through his GAL Decidora Lazaro, Employee, ..... Respondent,

v.

Burriss Electrical, Inc., Employer,  
and  
CompTrust AGC of the Carolinas, Carrier, ..... Appellants.

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**MEMORANDUM OF LAW**

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Pursuant to Rules 240 and 267, SCACR, and this Court's instructions during oral argument in this appeal on September 11, 2013, Appellants Burriss Electrical, Inc. and CompTrust AGC of the Carolinas hereby address the two issues raised by this Court:

1. During the pendency of an appeal, what is the proper forum to determine the existence of a settlement of a workers' compensation claim?
2. If a settlement is determined to exist, what is the proper forum to enforce it?

The answer to the first question is that, because there are no material facts that can be legitimately disputed, the issue of whether there is an enforceable settlement agreement can be resolved as a matter of law by either this Court or the Workers' Compensation Commission. The answer to the second question is provided by Section 42-17-70 of the Workers' Compensation

statute, which states that final awards and settlement agreements approved by the Commission may be filed with the court of common pleas of the county in which the injury occurred for enforcement purposes.

These questions arose in the instant case as a result of a letter filed by counsel for Respondent the morning of oral argument, seeking a continuance so that he could file a Motion to Compel Settlement Agreement. The letter was served on counsel for Appellants at 9:28 a.m. on September 11, 2013. (Exhibit A) At 5:50 p.m. the previous evening, Respondent had sent Appellants a letter purporting to accept a settlement offer. (Exhibit B) Appellants' position is that there is no binding settlement agreement between the parties. Furthermore, there is no 1) written settlement agreement, 2) signed by the Claimant, 3) signed by her counsel, 4) signed by counsel for Appellants, and/or 5) filed with the Commission. Therefore, even if there had been a "meeting of the minds," which Appellants dispute,<sup>1</sup> any settlement alleged by Claimant is not enforceable.

**1. During the pendency of an appeal, what is the proper forum to determine the existence of a settlement of a workers' compensation claim?**

A. Jurisdiction of the South Carolina Workers' Compensation Commission

The South Carolina Workers' Compensation Commission possesses jurisdiction to resolve "[a]ll questions arising under this Title, **if not settled by agreement of the parties** interested therein **with the approval of the Commission ...**" S.C. Code Ann. § 42-3-180 (emphasis added). Thus, the scope of the Commission's exclusive jurisdiction is broad, but

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<sup>1</sup> Under South Carolina law, settlement agreements typically are analyzed under general contract principles. Pee Dee Stores, Inc. v. Doyle, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009). Even under general contracting principles, however, there has been no agreement to settle in this case. Every offer to settle extended by Appellants had been rejected and countered by Respondent so that there was no outstanding offer at the time she attempted to "accept." As a result, Respondent's attempt to accept the offer the night before oral argument was ineffectual and constituted nothing more than a counter-proposal. Oeland v. Kimbrell's Furn. Co., Inc., 210 S.C. 223, 230, 42 S.E.2d 228, 230 (1947) (counter-offer constituted a rejection of the original offer and no contract resulted); Mace Indus., Inc. v. Paddock Pool Equip., 288 S.C. 65, 68, 339 S.E.2d 527, 529 (Ct. App. 1986) (explaining that a counterclaim operates as a rejection of an offer).

allows for parties to craft their own settlements so long as they are approved by the Commission, which has specific statutory authority to consider and approve voluntary settlements. Under Section 42-9-390, voluntary settlements are permissible “as long as the amount of compensation and the time and manner of payment are in accordance with the provisions of this title.” S.C. Code Ann. § 42-9-390.

Because this appeal involves a workers’ compensation claim, the issue of whether an enforceable settlement agreement has been reached must be determined in light of the requirements and policies of our workers’ compensation law. Mackey v. Kerr-McGee Chem. Co., 280 S.C. 265, 267-68, 312 S.E.2d 565, 566 (Ct. App. 1984). Under the Workers’ Compensation Act, settlement agreements must be signed by the parties and filed with the Commission before they are enforceable. Bilton v. Best Western Royal Motor Lodge, 282 S.C. 634, 640-41, 321 S.E.2d 63, 67-68 (Ct. App. 1984) (explaining that a workers’ compensation agreement is not reached until there is a writing, signed by the parties and filed with the Commission). In Mackey, this Court considered whether a workers’ compensation claimant could unilaterally reject an offer that his attorney had accepted but which had not been formally executed and approved by the Commission. This Court held that settlement agreements are not binding until they have been signed by the parties and approved by the Commission. 280 S. C. at 268, 312 S.E.2d at 567. Section 42-9-390 “requires settlement agreements to be in writing and filed with the Commission. The requirement that a settlement agreement be committed to writing necessarily anticipates that the agreement will also be signed by the parties and that **it will not be binding until they have done so.**” 280 S. C. at 271, 312 S.E.2d at 568 (emphasis added).

In cases involving injuries that occurred after July 1, 2007, and where both parties are represented by counsel, no Commission approval is needed but the settlement agreement still must be filed with the Commission. S.C. Code Ann. § 42-9-390. Under the Commission's regulations, the parties can agree to settle the claim by signing a Form 16 or Form 16A, or by "signing an Agreement and Final Release (clincher)." S.C. Code Ann. Reg. § 67-801(A). A settlement agreement and release must include the caption, a statement of the facts at issue, the date and nature of the alleged injury, the amount of the settlement and the terms of payment, as well as "[t]he signature of the claimant, his or her attorney, if any, and the attorney for the employer's representative." S.C. Code Ann. Reg. § 67-803(A). Where a claimant is represented by counsel, as is the case here, the settlement agreement is approved by the Commission once signed as prescribed in Section 67-803(A) and filed with the Commission. S.C. Code Ann. Reg. § 67-803(B). Once filed with and, where approval by the Commission is required, approved, the settlement agreement is binding and enforceable. S.C. Code Ann. Ann. § 42-17-70; *see also* S.C. Code Ann. Reg. § 67-803(C) (providing that "[a]n approved Agreement and Final Release is binding"). However, until these steps have occurred, there is no binding settlement agreement. Bilton, 282 S.C. at 640-41, 321 S.E.2d at 67-68; Mackey, 280 S. C. at 271, 312 S.E.2d at 568.

Even though the Commission has jurisdiction over matters arising under the Act, and serves as the ultimate fact finder, Sharpe v. Case Prod., Inc., 336 S.C. 154, 519 S.E.2d 102 (1999), where the facts are either undisputed or susceptible of only one reasonable conclusion, an issue may be decided by the court as a matter of law. *See, e.g.*, Kinsey v. Champion Am. Serv. Ctr., 268 S.C. 177, 181, 232 S.E.2d 720, 722 (1977) (explaining that "[a]lthough the Commission is the fact finding body, where the evidence gives rise to but one reasonable inference the question becomes one of law for the courts to decide"); Broughton v. South of the

Border, 336 S.C. 488, 498, 520 S.E.2d 634, 639 (Ct. App. 1999) (where the facts are not in dispute, factual issues may be decided as a matter of law by the reviewing court).

Here, there can be no question that there is no enforceable settlement agreement. Mr. Lazaro's injury occurred on July 6, 2007. (R. 26). As such, and because Claimant is represented by counsel, any settlement agreement would have to be in writing, signed by her, her counsel and Appellants' counsel, and filed with the Commission in order for it to be enforceable. Respondent can point to no written settlement agreement, has not and cannot credibly allege that Claimant and counsel for both parties have signed a written settlement agreement, and cannot plausibly argue that any such agreement has been filed with the Commission. In short, because the none of the necessary steps have been taken, there is no enforceable contract. Because there are no facts material to this issue that legitimately can be disputed, either the Commission or this Court can decide the question of whether an enforceable settlement agreement exists between Appellants and Respondent as a matter of law.

B. Jurisdiction of the South Carolina Court of Appeals

A timely appeal to this Court pursuant to S.C. Code Ann. § 42-17-60 and Rules 203(b)(6) and 205, SCACR, divests the Commission of jurisdiction. In particular, Rule 205 provides that, upon proper service of notice of the appeal upon the lower tribunal and all parties of record, "the appellate court shall have exclusive jurisdiction over the appeal ..." Rule 205, SCACR. Pursuant to S.C. Code Ann. § 14-8-10 *et seq.*, this Court's jurisdiction extends to appeals of final decisions of the Workers' Compensation Commission. This Court retains jurisdiction until the matter is remitted to the lower tribunal. *See, e.g., Moore v. North Am. Van Lines*, 310 S.C. 446, 448, 462 S.E.2d 275, 276 (1995).

Rule 261, SCACR, provides that agreements may be submitted to the Court of Appeals for consideration. Any such agreement must be in writing and signed by the parties. In particular, Rule 261(b), provides that, “[i]f a settlement agreement relates to a matter that is pending before an appellate court, the settlement agreement need not be submitted to the appellate court **unless approval by the appellate court, a lower court or tribunal is required before the agreement can be effective**, or the parties desire to have the agreement approved by the appellate court.” Rule 261(b), SCACR (emphasis added). Appellants have not located any published case law interpreting this provision;<sup>2</sup> however, a reasonable reading of this rule authorizes this Court to review a settlement agreement if approval by a lower tribunal, such as the Commission, is required before the agreement is effective. As noted above, where a claimant is represented by counsel, the Commission requires workers’ compensation settlement agreements to be written, signed by the claimant and counsel for both parties, and submitted to the Commission. This Court’s Rules require that, at a minimum, a settlement agreement be in writing and signed by the parties.

Given the fact that Respondent alleges a settlement agreement struck the night before oral argument, there is no possibility whatsoever that she can prove the existence of an enforceable settlement agreement. There simply was no time between Respondent’s letter purportedly accepting the settlement on the evening of September 10, 2013 and oral argument the following morning for the parties to not only draft and sign a written agreement but to file it with the Commission as well. More importantly, Respondent has not alleged that any of these steps have been taken and has not submitted any writing to this Court signed by both parties. Where there is only one possible or reasonable conclusion, a remand to the Commission for further fact

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<sup>2</sup> In *Theisen v. Theisen*, 2009 S.C. Unpub. LEXIS 21, Op. No. 2009-MO-024, (S.C. Sup. Ct. filed June 1, 2009) the Supreme Court refused to dismiss an appeal in light of a settlement agreement that was filed after the case had been argued and a draft opinion was circulating.

finding would futile. See Shealy v. Algernon Blaire, Inc., 250 S.C. 106, 110, 156 S.E.2d 646, 648 (1967). Thus, as Respondent has not even alleged and cannot possibly prove, either before this Court or the Commission, that the parties drafted, signed and filed a settlement agreement with the Commission between 5:50 p.m. on September 10, 2013 and 9:28 a.m. on September 11, 2013, this Court can decide as a matter of law that no enforceable settlement agreement exists.

In the alternative, if this Court believes additional evidence is necessary to decide this issue, Section 1-23-380(3) of the APA provides for the admission of additional evidence upon a showing of materiality and for good cause. Where this Court deems it appropriate, “the court may order that the additional evidence be taken before the agency upon conditions determined by the court.” S.C. Code Ann. § 1-23-380(3). Thus, Section 1-23-380(3) allows this Court flexibility in determining whether and when to allow additional evidence to be considered by the Commission, and also provides this Court with flexibility in setting conditions for that review.

To the extent this Court believes there is a dispute as to any material facts bearing on this issue, which Appellants deny, it could order the Commission to consider whatever evidence Respondent might muster in her attempt to prove the existence of an enforceable settlement agreement. If this Court takes such an approach, however, it should retain jurisdiction to decide the merits of the appeal once the Commission determines there is no enforceable settlement agreement, which is the only possible outcome. Otherwise, both the parties and this Court will have expended a great deal of time and resources in briefing, arguing, reviewing the Record, hearing argument and considering the issues raised in this appeal, to no end. Litigants should not be allowed to drive up the cost of appeals merely by alleging the existence of a purported

settlement agreement the morning of oral argument that requires remand to the Commission, only to have the same matter and issues appealed, briefed and argued again.<sup>3</sup>

**2. If a settlement is determined to exist, what is the proper forum to enforce it?**

Because there is no possibility that this Court or the Commission could conclude that a settlement agreement exists in this case, the second question becomes functionally moot. However, because this Court requested briefing on this issue, Appellants respond by directing this Court to Section 42-17-70, which provides in pertinent part, that “[a]ny party in interest may file in the court of common pleas of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the Commission, ... whereupon such court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment had been rendered in a suit duly heard and determined by such court.” S.C. Code Ann. Ann. § 42-17-70. As Mr. Lazaro was injured in Florence County, South Carolina, (R. 26), any enforcement action would be filed in the Florence County Court of Common Pleas. However, since the Commission’s requirements regarding settlement agreements have not been fulfilled here, there is no settlement to be enforced.

CONCLUSION

Because there are no material facts that legitimately can be disputed by Respondent as to the existence of a written, signed, filed settlement agreement, this Court can decide this issue as a matter of law. In the alternative, if this Court believes it necessary or prudent to instruct the Commission to consider additional evidence, this Court should retain jurisdiction to hear the

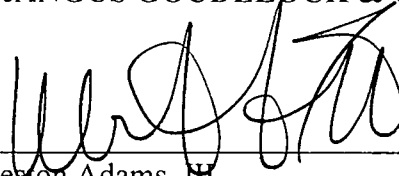
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<sup>3</sup> Note that the parties reached a settlement agreement in this case previously, and jointly sought dismissal of the pending appeal. Later, Respondent pulled out of the settlement at the last minute which prompted Appellants to move this Court to reinstate their appeal, (Exhibit C), which this Court granted. (Exhibit D).

merits of this appeal, as a matter of judicial economy, once the Commission has determined that this case has not been settled.

Respectfully submitted,

**McANGUS GOUDELOCK & COURIE LLC**



---

Weston Adams, III  
Meridian 10<sup>th</sup> Floor  
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PO Box 12519  
Columbia, South Carolina 29211-2519  
(803) 779-2300

Helen F. Hiser  
735 Johnnie Dodds Blvd., Suite 200  
P.O. Box 650007  
Mount Pleasant, SC 29465  
(843) 576-2900  
*Attorneys for Appellants Burriss Electrical,  
Employer, and CompTrust AGC of the  
Carolina*

September 26, 2013

# **Exhibit A**

**Helen Hiser**

---

**From:** Kim Hinkle <kim@pfmcdlaw.com>  
**Sent:** Wednesday, September 11, 2013 9:28 AM  
**To:** jackduncanlaw@gmail.com; Weston Adams; Helen Hiser; Rocky Hughey  
**Subject:** URGENT - Antonio Lazaro v. Burriss Electrical; Appellate Case No. 2011-192272  
**Attachments:** CCF09112013.pdf

**Importance:** High

The attached is being sent to you at the request of Preston F. McDaniel.

Kimberley T. Hinkle, Paralegal  
to Preston F. McDaniel  
McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, South Carolina 29201  
T: 803-771-7211  
F: 803-252-0709



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**McDANIEL LAW FIRM**  
ATTORNEYS AND COUNSELORS AT LAW  
1315 ELMWOOD AVENUE  
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Proudly representing injured workers  
for over 25 years.

Telephone (803) 771-7211

Preston F. McDaniel  
Justin S. Byars  
Matthew Robertson  
OF COUNSEL:  
Michael Johnson, P.C.

Facsimile (803) 252-0709

September 11, 2013

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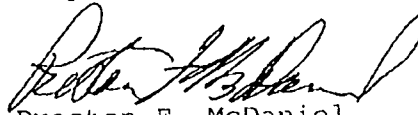
Honorable Jenny Abbott Kitchings  
Clerk of Court  
SC Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29211

RE: Antonio Lazaro v. Burriss Electrical  
Appellate Case No. 2011-192272

Dear Ms. Kitchings:

Please advise the Panel that I request permission prior to argument to argue a Motion for Continuance to allow me the opportunity to file a Motion to Compel a Settlement Agreement in the above-referenced matter and barring the granting of such Motion for this matter to be reset for hearing after notice at a later date. As I will explain in the Motion, the events that led to this Motion which occurred even after the Court closed last night. I have advised Defense Counsel I would be making the Motion and am hand delivering a copy of this to their Appellate Counsel this morning.

Respectfully submitted,



Preston F. McDaniel  
Attorney for the Respondent

PFM/kth

cc: John E. Duncan, Esquire  
Weston Adams, III, Esquire  
Helen F. Hiser, Attorney at Law  
Landon L. Hughey, Esquire

# **Exhibit B**

## Helen Hiser


---

**From:** Kim Hinkle <kim@pfmcdlaw.com>  
**Sent:** Tuesday, September 10, 2013 5:50 PM  
**To:** Rocky Hughey  
**Cc:** jackduncanlaw@gmail.com; Helen Hiser; Weston Adams  
**Subject:** Antonio Lazaro v. Burriss Electrical, Inc; WCC File No. 0710622  
**Attachments:** CCF09102013\_0002.pdf

**Importance:** High

The attached is being sent to you at the request of Preston F. McDaniel.

Kimberley T. Hinkle, Paralegal  
to Preston F. McDaniel  
McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, South Carolina 29201  
T: 803-771-7211  
F: 803-252-0709

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McDANIEL LAW FIRM  
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1315 ELMWOOD AVENUE  
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers  
for over 25 years.

Preston F. McDaniel  
Justin S. Byars  
Matthew Robertson  
OF COUNSEL:  
Michael Johnson, P.C.

Telephone (803) 771-7211

Facsimile (803) 252-0709

September 10, 2013

VIA EMAIL ONLY - [lhughey@mgclaw.com](mailto:lhughey@mgclaw.com)

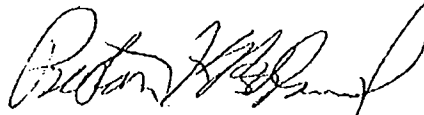
Landon L. Hughey, Esquire  
MCANGUS GOUDELICK & COURIE, LLC  
Post Office Box 12519  
Capitol Station  
Columbia, SC 29211-2519

RE: Antonio Lazaro v. Burriss Electrical Inc.  
WCC File No.: 0710622

Dear Rocky:

This will confirm my telephone conversation with you this afternoon that we are accepting the offer of \$375,000.00 made in your July 12, 2013 letter to settle the indemnity. By copy of this email, I am notifying your Appellate Counsel, Helen F. Hiser and Weston Adams, III, of this communication. I am glad we were able to get this matter resolved.

Sincerely yours,



Preston F. McDaniel

PFM/kth

cc: John E. Duncan, Esquire (via email only)  
Weston Adams, III, Esquire (via email only)  
Helen F. Hiser, Attorney (via email only)

# **Exhibit C**



ATTORNEYS AT LAW

Reply To  
WESTON ADAMS, III  
Direct Dial: (803) 227-2322  
wadams@mgclaw.com  
COLUMBIA

April 18, 2012

**RECEIVED**  
APR 18 2012  
SC Court of Appeals

Via Hand Delivery

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Antonio Lazaro v. Burris Electric and CompTrust AGC of the Carolinas  
Date of Accident: July 6, 2007  
WCC File No.: 0710622  
Claim No.: S266-07-01390  
Our File No.: 20441.08051  
Case Tracking No.: 2011-192272

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Appellants' Motion for Recall of Remittitur and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return the clocked-in copies via our courier.

Also, enclosed is our firm's check in the amount of \$25 for filing the motion.

If you have any questions, please contact me.

Yours truly,

Weston Adams, III

WAIII/lhs  
Enclosures

cc: Preston F. McDaniel, Esq.  
John E. Duncan, Esquire

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

WCC File No. 0710622

**RECEIVED**

APR 18 2012

**SC Court of Appeals**

Antonio Lazaro, by and  
through his GAL Decidora Lazaro, Claimant..... Respondent,

v.

Burriss Electrical, Employer,  
and  
CompTrust AGC of the Carolinas ..... Appellants.

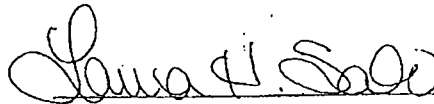
**PROOF OF SERVICE**

I certify that I have served the Appellants' Motion for Recall of Remittitur on Antonio Lazaro, by and through his GAL Decidora Lazaro, by depositing a copy of it in the United States Mail, postage prepaid, addressed to counsel of record:

Preston F. McDaniel, Esquire  
The McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, South Carolina 29201

John E. Duncan, Esquire  
137 East Butler Street, Suite 3  
Lexington, South Carolina 29072

April 18, 2012



Laura H. Sabo  
Paralegal for Weston Adams, III  
McAngus, Goudelock & Courie LLC  
Post Office Box 12519, Capitol Station  
Meridian, 1320 Main Street, 10<sup>th</sup> Floor (29201)  
Columbia, South Carolina 29211-2519  
(803) 779-2300

*Attorneys for Appellants*

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

WCC File No. 0710622

**RECEIVED**  
APR 18 2012  
SC Court of Appeals

Antonio Lazaro, by and  
through his GAL Decidora Lazaro, Claimant..... Respondent,

v.

Burriss Electrical, Employer,  
and  
CompTrust AGC of the Carolinas ..... Appellants.

**MOTION FOR RECALL OF REMITTITUR**

Pursuant to Rules 240 and 221(b), SCACR, Appellants Burriss Electrical and CompTrust AGC of the Carolinas hereby move this Court to recall the order of remittitur filed on December 19, 2011. Although the parties had reached a settlement, and jointly requested this Court to dismiss the appeal, subsequent events have caused the settlement to fall apart.

Upon reaching an agreed settlement, current counsel for Claimant requested that we file a motion to have the appeal dismissed, so that they would not need to file their Initial Brief and Designation of Matter. (Ex. A, email from Kim Cashdollar to Heather S. Cullum dated November 15, 2011). Despite knowing that the Owsald Law Firm, including Billy Oswald and Gene Stockholm, who had represented Claimant Lazaro for only two months in 2007, had filed a lien on the Workers' Compensation file, Claimant's current counsel failed to resolve this issue

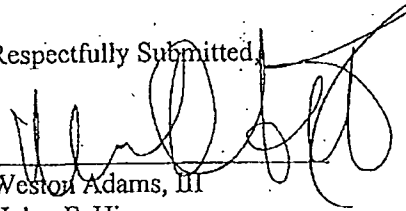
prior to settling the claim and urging Appellants to seek dismissal of their appeal. (See Ex. B, Letter from Preston McDaniel, Esq. to Gene Stockholm, Esq., dated June 10, 2011, discussing the lien issue and need for resolution).

Once the appeal was dismissed, the lien issue was raised by the Oswald Law Firm. (Ex. C, Letter from Preston McDaniel, Esq. to Gene Stockholm, Esq., dated January 5, 2012, noting that the fee dispute, which was really among former and current counsel for Claimant and Claimant, needed to be resolved) (Ex. D, Letter from Landon Hughey, Esq. to Preston McDaniel, Esq., dated January 11, 2012, noting that the issue needed to be resolved as quickly as possible). Although current counsel for Claimant advised that they would deposit the settlement proceeds into an account and then obtain a ruling from the Commission as to whether the Oswald Firm was to be paid any attorney's fees, (Ex. E, Letter from Preston McDaniel, Esq. to Landon Hughey, Esq., dated January 19, 2012), Appellants prudently included Claimant's name as well as both attorneys names (Preston McDaniel and Billy Oswald) on the settlement checks. (Ex. F, Settlement Checks made payable to "Decidora Lazaro and Attys Preston McDaniel and Billy Oswald"). Appellants were compelled to do so because of the lien filed with the Commission.

Nonetheless, as a result of the inclusion of Billy Oswald's name on the settlement checks, Claimant backed out of the settlement agreement. (Ex. G, Letter from Preston McDaniel, Esq. to Landon Hughey, Esq., dated January 23, 2012) (Ex. H, Email correspondence between Landon "Rocky" Hughey, Esq. and John Duncan, Esq. dated January 24 & 30, 2012). Current counsel for Claimant indicated he would "be glad to assist with any paperwork necessary to reinstate the appeal . . ." (Ex. I, Letter from Preston McDaniel, Esq. to Landon Hughey, Esq., dated January 26, 2012).

Further attempts to resolve the issue of which parties are entitled to attorneys' fees and to preserve the settlement have failed. Therefore, Appellants respectfully request this Court to recall its Order dismissing and remitting this case, and to set a date for Claimant to file his Initial Brief and Designation of Matter.

Respectfully Submitted,



Weston Adams, III  
Helen F. Hiser  
McAngus, Goudelock & Courie LLC  
Meridian 10<sup>th</sup> Floor  
1320 Main Street  
PO Box 12519  
Columbia, SC 29211-2519

*Attorneys for Appellants Burriss Electrical,  
Employer, and CompTrust AGC of the Carolinas*

April 18, 2012

# Exhibit A

**From:** Kim Cashdollar [kmcldlaw@hotmail.com]  
**Sent:** Tuesday, November 15, 2011 11:12 AM  
**To:** Heather S. Cullum  
**Subject:** RE: Antonio Lazaro v. Burriss Electrical Inc.; WCC File No. 0710622


By the way Heather, I just got off the telephone with the Court of Appeals as our Initial Brief and Designation of Matter is due today. Elizabeth, the clerk handling this file, stated that the "cleanest" way to end this case is by a letter from Rocky (as attorney for the APPELLANTS) stating this case is settled with both his signature and also with Preston's signature for the Respondents concurring. Please let me know what to do to help as this has to be sent to the Court today so we do not have to go to the trouble with filing our Brief and Designation. I appreciate all your help in this matter. Please let me know what Rocky says.


Kimberley I. Cashdollar  
Legal Assistant

McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, SC 29201  
803-771-7211

**Subject:** RE: Antonio Lazaro v. Burriss Electrical Inc.; WCC File No. 0710622  
**Date:** Tue, 15 Nov 2011 11:05:04 -0500  
**From:** HCullum@mgclaw.com  
**To:** kmcldlaw@hotmail.com

Will do

Visit	Location
 <p><b>Heather S. Cullum</b> Paralegal</p> <p>Main: 803-779-2300 Direct: 803-227-2204 Fax: 803-778-0528</p> <p>1820 Main St. 10th Floor Columbia, SC USA 29201 hcullum@mgclaw.com</p>	

 Please consider the environment  
before printing this email.

**From:** Kim Cashdollar [mailto:kmcldlaw@hotmail.com]  
**Sent:** Tuesday, November 15, 2011 11:03 AM

4/12/2012

To: Heather S. Cullum  
Subject: FW: Antonio Lazaro v. Burriss Electrical Inc.; WCC File No. 0710622  
Importance: High

Heather, please make sure Rocky gets the message below that Preston will accept the \$\_\_\_\_\_ to settle this case. Thanks! (Please confirm with me he got this message.)

---

Kimberley I. Cashdollar  
Legal Assistant

McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, SC 29201  
803-771-7211

---

From: kcmcdlaw@hotmail.com  
To: rhughey@mgclaw.com  
Subject: RE: Antonio Lazaro v. Burriss Electrical Inc.; WCC File No. 0710622  
Date: Tue, 15 Nov 2011 11:02:12 -0500

Rocky, Preston said to tell you "we have a deal". If you have any questions, please email me back. Thank you!

P.S. Please confirm your receipt of this email.

---

Kimberley I. Cashdollar  
Legal Assistant

McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, SC 29201  
803-771-7211

---

Subject: RE: Antonio Lazaro v. Burriss Electrical Inc.; WCC File No. 0710622  
Date: Mon, 14 Nov 2011 15:17:21 -0500  
From: rhughey@mgclaw.com  
To: kcmcdlaw@hotmail.com  
CC: HCullum@mgclaw.com

Kim:

My people can do \$\_\_\_\_\_ to close the indemnity.

Rocky

---

From: Kim Cashdollar [mailto:kcmcdlaw@hotmail.com]  
Sent: Friday, November 11, 2011 4:26 PM

4/12/2012

To: Rocky Hughey

Subject: Antonio Lazaro v. Burriss Electrical Inc.; WCC File No. 0710622

Please see attached letter. Thank you!

---

Kimberley I. Cashdollar  
Legal Assistant

McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, SC 29201  
803-771-7211

4/12/2012

# Exhibit B

McDANIEL LAW FIRM  
ATTORNEYS AND COUNSELORS AT LAW  
1315 ELMWOOD AVENUE  
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers  
for over 25 years.

Preston F. McDaniel  
OF COUNSEL:  
Michael Johnson, P.C.

Telephone (803) 771-7211

Facsimile (803) 252-0709

June 10, 2011

Gene Stockholm, Esquire  
OSWALD LAW FIRM  
Post Office Box 4052  
West Columbia, South Carolina 29171-4052

RE: ANTONINIO LAZARO v. BURRIS ELECTRIC  
WCC FILE NO. 0710622

Dear Gene:

I am writing this letter to you in response to your letter of May 18<sup>th</sup> concerning attorney's fees in Mr. Lazaro's case. I have no records and no mention of where I have ever spoken to you personally about this but I do have 2007 correspondence from Billy. I assume that this letter may have been written concerning previous correspondence I had with Billy. I have attached my letter of October 4, 2007 to Billy concerning this matter wherein I advised him that I would protect any, "costs" outlay that you had through that point. I am not going to get into everything that occurred prior to that letter other than to say that I was contacted by telephone repeatedly and had Mrs. Lazaro come to my office on at least two occasions wherein various family members and friends appeared with her and on each of those occasions I advised them that I could not speak with them and would not speak with them as long as they were represented by another law firm. The purpose of those repeated phone calls and the purpose of those visits to my office was over the fact that she could not obtain her file from Billy. I will leave the resolution of that issue to Mrs. Lazaro and as I advised then, and as I am advising now, I will not be involved in any way, shape or form over her having difficulty in obtaining her file.

In any event, subsequent to that when I received the file and while I know that your letter says that you spend a tremendous amount of time and also a letter from Billy to me on October 11<sup>th</sup> also talks about a tremendous amount of time that you spent on this case, outside of the letters dated October 11<sup>th</sup> to the Commission to protect a proposed or alleged lien and the letter to the insurance carrier for the same purpose of that same date and Billy's letter to me of that same date, when I received the file there was only one standard letter to the Judicial

Gene Stockholm, Esquire

June 10, 2011

Page 2 of 5

Department at the Workers' Compensation Commission and some other documents in reference to their marriage, a copy of the Fee Agreement that she had signed with Billy and some various limited medical records in the file. The medical records that I received were mainly copies of Billing Statements and a couple of other records but nowhere near what would be expected from the hospital for a man with anoxic brain injury. The sum total of those records was less than 1/4" thick. I will be glad to make them available if you want to look at them along with the other documents that were provided at that time. If there were more records not sent over and a lot more time spent, you may want to document that. Immediately upon becoming involved in the file, I filed a Petition to have Mrs. Lazaro appointed the Guardian ad Litem for Mr. Lazaro which had not been done and I also took actions and associated Jack Duncan because of his Spanish speaking capabilities to make Mrs. Lazaro feel more comfortable and then Jack and I obtained her appointment as the General Guardian for Mr. Lazaro with the Probate Court, all of which at least from the information I received had not been done at the time that we received the file. Again, I say that simply to say that I was not provided with any tremendous amount of work that had been done on the file.

However, I will protect any costs, which I have never received from your firm, in this matter and as to any claim for any attorney's fees that is a matter for a decision by the Commission. I will advise Mrs. Lazaro and will present to the Commission any position that she wants to take in reference to whether or not you are entitled to any attorney's fees. If she agrees, you are entitled then I will be glad to present that to the Commission and ask the Commission to set any attorney's fees for your firm. If not and she contests that you are entitled to any attorney's fees, I will again ask the Commission to determine whether or not you are entitled to any part of the attorney's fees that may be awarded. Also, I will advise Mrs. Lazaro of the Fee Dispute Resolution program of the South Carolina Bar so that this matter can hopefully be handled as minimally as possible.

I will, of course, abide by any decision made by the Workers' Compensation Commission concerning any entitlement by your firm to any attorney's fees and/or the Fee Dispute Resolution Board of the South Carolina Bar. I will also check with Mrs. Lazaro and ask for her opinion as to whether or not she is objectionable to you being paid any attorney's fees or what attorneys' fees she feels should be paid to you in this matter.

Finally, based on the position that Billy took initially that due to the tremendous amount of work that had been performed by

Gene Stockholm, Esquire

June 10, 2011

Page 3 of 5

your firm, I would recommend as a backstop or as a justification for any fee claimed that you do a quantum merit analysis setting forth the number of hours worked on the file. I suggest that just simply as a recommendation.

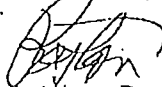
Thanks for contacting me concerning this and if you have something that I don't have in the file, please let me know.

Also, to let you know in reference to any potential third-party case, after obtaining the file we met with Burriss officials; we also went over all the investigative reports and photographs; we talked to witnesses at the accident scene and we even went over the EMS procedure and based on Jack's and my analysis, we were not able to find any potential third-party claim. If you were able to determine anything contrary to that, please let me know.

Finally, at this point, no attorneys' fees have been requested. We did file a Form 50 to change Mr. Lazaro's status from temporary total disability to total permanent disability and requested a partial lump sum for the family but we have not and will not and do not intend to request any attorneys' fees out of that partial lump sum award. So at this point, no attorneys' fees have been paid or are anticipated being paid nor has any application for attorneys' fees been made at this point. Unless I hear from you further, I will simply wait until such request is made and at that point I again will make the Commission awarded of this situation and will seek their direction on how they want to proceed in reference to the attorney's fees that may be due to anybody involved.

I am forwarding a copy of this letter to Landon Hughey, my co-counsel Jack Duncan and to the Commission to put on file my position in reference to this lien being claimed by your firm.

Sincerely yours,



Preston F. McDaniel

PFM/kic  
Enclosure

cc: Landon Hughey, Esquire  
John E. Duncan, Esquire  
Mrs. Decidora Lazaro  
Ms. Virginia L. Crocker, Judicial Department

# Exhibit C

McDANIEL LAW FIRM

ATTORNEYS AND COUNSELORS AT LAW

1315 BLMWOOD AVENUE

COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers

for over 25 years.

Preston F. McDaniel

Telephone (803) 771-7211

OF COUNSEL:

Michael Johnson, P.C.

Facsimile (803) 252-0709

January 5, 2012

VIA FACSIMILE 796-1055  
Gene Stockholm, Esquire  
OSWALD LAW FIRM  
Post Office Box 4052  
West Columbia, South Carolina 29171-4052

RE: ANTONIO LAZARO v. BURRIS ELECTRIC  
WCC FILE NO.: 0710622

Dear Gene:

Initially years ago before I was involved when Mrs. Lazaro

Gene Stockholm, Esquire

Page 2 of 2

requested her file and then came to see me. Billy indicated that he may claim a lien against any attorney's fees in this matter and may have filed something in that regard. While I am sure that was to protect against any immediate settlement and payment of an attorney's fee, Jack Duncan and I after years and an appeal to the Court of Appeals have just reached a settlement concerning compensation and I would appreciate being advised as to whether or not your firm claims a lien at this time so that we may have a hearing before Commissioner Lyndon as soon as possible as to whether or not you are entitled to any attorney's fees in this case. Of course, if you are claiming a lien you will need to specifically let us know what the claimed lien is and the basis for the claim. Again, I know that this was many years ago and so it's probably not an issue but I want to make sure on this so we can resolve this as fast as possible so that Jack Duncan and I can be paid for our work over the years on this file. At this point, I am sure that no lien is being claimed but I would appreciate a letter to that effect with a copy to defense counsel.

By copy of this letter, I am notifying Rocky Hughey who is now handling this file for the Defendants so that he is advised as to how we will be proceeding and so that you can copy him on all correspondence concerning this matter; even though this would be a matter between Mrs. Lazaro as the Guardian for Mr. Lazaro, Jack Duncan, me and your office. I look forward to hearing from you as soon as possible.

Sincerely yours,

Preston F. McDaniel

PFM/kic

cc: Landon Hughey, Esquire (lhughey@mgclaw.com)  
John E. Duncan, Esquire (johnduncanlaw@gmail.com)

# Exhibit D



ATTORNEYS AT LAW

Reply To  
LONDON HUGHBY  
Direct Dial: (803) 227-2261  
lhughby@mgclaw.com  
COLUMBIA

January 11, 2012

Preston F. McDaniel, Esquire  
The McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, South Carolina 29201

RE: Antonio Lazaro v. Burris Electric and CompTrust AGC of the Carolinas  
Date of Accident: July 6, 2007  
WCC File No.: 0710622  
Our File No.: 20441.08051  
Claim No.: S266-07-01390

Dear Preston:

I have received several phone calls from Billy Oswald asserting a lien in the above-referenced claim. Please advise the Commission that we need this issue addressed as quickly as possible. Obviously, the sooner the better for my clients and the Lazaros.

Please let me know if I can be of any assistance. I have copied Mr. Oswald on this letter to acknowledge notice of his lien.

Very truly yours,

A handwritten signature in black ink, appearing to be 'LH' or 'L. Hughey', written over a horizontal line.

Landon Hughey

LLH/caj

cc: Jennifer D. Little, CompTrust AGC of the Carolinas (via e-mail)  
Billy R. Oswald, Esquire, Oswald Law Firm

# Exhibit E

McDANIEL LAW FIRM  
ATTORNEYS AND COUNSELORS AT LAW  
1315 BLMWOOD AVENUE  
COLUMBIA, SOUTH CAROLINA 29201

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for over 25 years.

Preston F. McDaniel  
OF COUNSEL  
Michael Johnson, P.C.

Telephone (803) 771-7211

Fax (803) 252-0709

January 19, 2012

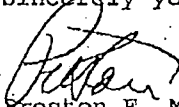
VIA EMAIL - [lhughey@mgclaw.com](mailto:lhughey@mgclaw.com)  
Landon Hughey, Esquire  
MCANGUS GOUDELOCK & COURIE, LLC  
Post Office Box 12519  
Capitol Station  
Columbia, SC 29211-2519

RE: Antonio Lazaro v. Burriss Electrical Inc.  
WCC File No.: 0710622

Dear Rocky:

Pursuant to our conversation yesterday, please find attached a letter to Billy Oswald again reaffirming the way I will proceed which is to deposit the settlement proceeds into our account and then get a ruling from the Commission as to whether or not Billy is entitled to an attorney's fee in this matter. Per our discussion, I would appreciate it if you would let me know as soon as the documents are ready and I will pick those up so we can deposit this into our Trust Account and hopefully get a brief conference before Commissioner Beck tomorrow to resolve this issue.

Sincerely yours,

  
Preston F. McDaniel

PFM/kic

# Exhibit F

PO BOX 30277  
CHARLOTTE NC 28230

Explanation of Payment				Payee			
				DECIDORA LAZARO AND ATTYS PRESTON MCDANIEL & BILLY OSWALD 1315 ELMWOOD AVE COLUMBIA, SC 29201			
Client Number	S266	Case Number	S2660701390 01	Less Date	07/06/2007	County	WC
Policy Number		Number		Payee Tax ID	570807332	Office	23
Employer/Insured	BURRISS ELECTRICAL, INC.			Check Number	050003259	Location Number	8C1731
Employee/Claimant	LAZARO, ANTONIO			Date Bill Received			
Acc Number				Service Dates	01/04/2012 - 01/04/2012		
Provider Bill/Reference Number							

Date	Description	Amount
	CLAIMER WHICH INCLUDES ATTORNEY FEES FOR PRESTON MCDANIEL AND BILLY OSWALD, ESQS.	0.00

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT.

CACIC INSURANCE COMPANY  
PO BOX 30277  
CHARLOTTE NC 28230

DATE: 01/06/2012  
AMOUNT: \$\$\$  
VOID AFTER 60 DAYS

PAY TO THE ORDER OF  
DECIDORA LAZARO AND ATTYS PRESTON MCDANIEL & BILLY OSWALD  
1315 ELMWOOD AVE  
COLUMBIA, SC 29201

*M. Howard McDaniel*  
*Billy Oswald*

⑈050003259⑈ ⑆053201607⑆0005220720979⑈



# Exhibit G

McDANIEL LAW FIRM  
ATTORNEYS AND COUNSELORS AT LAW  
1315 ELMWOOD AVENUE  
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers  
for over 25 years.

Preston F. McDaniel  
OF COUNSEL,  
Michael Johnson, P.C.

Telephone (803) 771-7211

Facsimile (803) 252-0709

January 23, 2012

PLEASE CALL ME  
UPON RECEIPT!!!

VIA EMAIL - [lhughey@mgclaw.com](mailto:lhughey@mgclaw.com)  
Landon Hughey, Esquire  
MCANGUS GOUDELOCK & COURIE, LLC  
Post Office Box 12519  
Capitol Station  
Columbia, SC 29211-2519

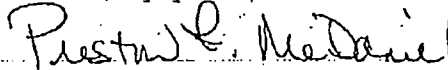
RE: Antonio Lazaro v. Burriss Electrical Inc.  
WCC File No.: 0710622

Dear Rocky:

First, please find attached a draft letter I intend to send once we receive the revised checks.

Next, Billy Oswald was removed as Attorney of Record in 2007. Jack Duncan and I have been Counsel of Record and have had an Attorney Fee Agreement with Mrs. Lazaro since 2007. Your client is well aware of the extremely upsetting situation for Mrs. Lazaro involving Mr. Oswald. I consider your clients' inclusion of Mr. Oswald's name (I assume without your knowledge) on the settlement checks to be both outrageous and tortuous inference with contract. If I do not receive the new checks by 1-26-12, I will advise my client of her available legal remedies.

Sincerely yours,



Preston F. McDaniel

PFM/kic  
Enclosure

McDANIEL LAW FIRM  
ATTORNEYS AND COUNSELORS AT LAW  
1315 BLMWOOD AVENUE  
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers  
for over 25 years.

Preston F. McDaniel  
OF COUNSEL  
Michael Johnson, P.C.

Telephone (803) 771-7211

Facsimile (803) 252-0709

January 23, 2012

VIA EMAIL: [klindler@wcc.sc.gov](mailto:klindler@wcc.sc.gov)  
Commissioner Gene McCaskill  
SC Workers Compensation Commission  
Post Office Box 1715  
Columbia, South Carolina 29202

RE: Antonio Lazaro v. Burriss Electrical Inc.  
WCC File No.: 0710622

Dear Commissioner McCaskill:

Pursuant to the direction of Chairman Beck, I am writing to you to set a conference/hearing to resolve a disputed attorney's fees lien for Mr. Billy Oswald in the above-referenced matter. Also attached is the Form 61 that I am filing on behalf of Mr. Jack Duncan, my co-counsel and I, who have represented Mr. Lazaro, his wife, and family since 2007. Back in 2007, Mrs. Lazaro had obtained Mr. Billy Oswald to represent her who represented her, according to the Fee Agreement and the records of the Commission, between July of 2007 and September of 2007 when she picked up her file and subsequently brought it to me for representation. At the time that she picked up her file and Mr. Oswald was removed as Attorney of Record at the Commission, Mr. Oswald placed on file a letter simply stating that he claimed a lien on the workers' compensation file and any possible third-party case.

Subsequently after the hearing and an Order in which various issues were addressed by the Commission, during an appeal of that Decision of Commissioner Beck to the S.C. Court of Appeals and after Briefs were filed, the parties entered into a resolution of the compensation issues. All parties were aware of this previous lien letter being filed and that it would need to be addressed.

We have completed all the settlement paperwork which has been submitted to the Commission and we have attached as set forth hereinabove our Form 61 and Order and an itemized statement of attorney's fees and costs for Mr. Duncan and me. I would ask you to note that Mr. Duncan and I originally entered into a 1/3<sup>rd</sup> contingency fee contract with the Lazaro family but we have reduced that to 18% of the final settlement obtained. I also have spoken to Mr. Billy Oswald about his claim for attorney's fees and have set aside the amount of funds that he has stated that he believes he is entitled to or will accept for his several months representation of Mrs. Lazaro. Mrs. Lazaro disputes his entitlement to any funds.

DRAFT

Commissioner T. Scott Beck

January 23, 2012

Page 2 of 2

As noted, I have set aside or will hold back a sufficient amount of funds to cover any attorney's fees claimed by Mr. Oswald that may be awarded. I have included in the itemized statement of costs the costs that he advised that he has which I advised him was back in 2007 I would protect.

I would appreciate it if you would consider going ahead and approving our attorney's fees and costs and having the Commission issue any required approval of the settlement paperwork so that we may disburse to Mrs. Lazaro or set up any fund that needs to be set up for her and pay bills that are outstanding. Again, as noted above, I will hold back the funds necessary to settle any disputed entitlement to attorney's fees and would appreciate it if you would set a hearing or a conference on this as soon as possible to determine the amount, if any, to which Mr. Oswald is entitled as attorney's fees in this matter.

Due to this situation, this family has been through a tremendous amount and I would really appreciate it if this matter could be resolved as soon as possible on their behalf. This has been and is a very traumatic experience for the entire family and we hope that this nightmare, at least from the standpoint of the workers' compensation claim, can be ended for this family in the near future. Mr. Duncan and I will appear and will have an interpreter available at any hearing you decide to hold. By copy of this letter, I am notifying Mr. Billy Oswald, Mr. Rocky Hughey who represents the Defendants, and my co-counsel of this communication and of this request that this matter be expedited and heard as soon as possible. I look forward to your review of this request under Commission Reg. 67-1205 and Supreme Court Disciplinary Rule, SCRAP Rule 407, Rule 1.5 "Fees" Subsections (a, b, c). I assume Mr. Oswald will produce a copy of any written modification to his contingency fee contract since no offers were made prior to his removal as attorney of record. I look forward to appearing before you and as always, I appreciate all the courtesies and kindnesses shown to me by your office and the Commission.

Sincerely yours,

Preston F. McDaniel

PFM/kic  
Enclosure

cc: Landon Hughey, Esquire (lhughey@mgclaw.com)  
John E. Duncan, Esquire (jackduncanlaw@gmail.com)  
Billy R. Oswald, Esquire (oswaldlawfirm33@gmail.com)

# Exhibit H

**From:** Rocky Hughey  
**Sent:** Monday, January 30, 2012 5:20 PM  
**To:** 'John Duncan'; 'Preston McDaniel'  
**Subject:** RE: Antonio Lazaro v Burriss Electric settlement

Jack:

I will call Preston about this tomorrow. I would hope we could keep the settlement on the books. All we need is a hearing to address fees, which we will need at some point anyway.

Rocky

---

**From:** John Duncan [mailto: johnduncanlaw@gmail.com]  
**Sent:** Tuesday, January 24, 2012 12:13 PM  
**To:** Rocky Hughey; 'Preston McDaniel'  
**Subject:** Antonio Lazaro v Burriss Electric settlement

Rocky: I just spoke with Preston who is on the road. As I understand it, your carrier refuses to take Billy Oswald's name off the settlement check in spite of mine and Preston's position we would keep the amount claimed in our trust account until the Commission decides on his entitlement to a fee.

As such, Preston and I agree the settlement is off and y'all need to pursue your appeal. We'll be filing a new Form 50 immediately for college expenses. Antonio, Jr., has already incurred \$25,000 at Spartanburg Methodist this school year and Oliver will be attending college in the fall, most likely USC Upstate.

Jack Duncan  
137 E. Butler Street  
Lexington, SC 29072  
803.951.2388  
[JohnDuncanLaw@gmail.com](mailto:JohnDuncanLaw@gmail.com)

Bio	V-card	Location
<p><b>Rocky Hughey</b> <i>Attorney</i></p> <p><b>MG&amp;C</b> <small>MEMBERSHIP GROUP</small></p> <p>Main: 803-770-2800 Direct: 803-227-2281 Fax: 803-748-0528</p> <p>1320 Main St. 10th Floor Columbia, SC USA 29201 <a href="mailto:rhughey@mgcsw.com">rhughey@mgcsw.com</a></p>		

**MG&C** Please consider the environment  
before printing this email.

# Exhibit I

MCDANIEL LAW FIRM  
ATTORNEYS AND COUNSELORS AT LAW  
1315 ELMWOOD AVENUE  
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers  
for over 25 years.

Preston F. McDaniel  
OF COUNSEL;  
Michael Johnson, P.C.

Telephone (803) 771-7211

Facsimile (803) 252-0709

January 26, 2012

VIA EMAIL - [lhughey@mgclaw.com](mailto:lhughey@mgclaw.com)

AND U.S. MAIL

Landon Hughey, Esquire  
MCANGUS GOUDELOCK & COURIE, LLC  
Post Office Box 12519  
Capitol Station  
Columbia, SC 29211-2519

RE: Antonio Lazaro v. Burriss Electrical Inc.  
WCC File No.: 0710622

Dear Rocky:

Per Jack's email we have withdrawn from any settlement and I am returning the settlement checks and paperwork to you with this letter. I look forward to getting your appeal reinstated and to proceeding with this case. I will be glad to assist with any paperwork necessary to reinstate the appeal or if your carrier decides to pay the lump sum as ordered to the Lazaro family (for Gene's/Billy's information - out of which Jack and I were not asking for or awarded a fee) and then proceed on with the case, let me know that as well.

Next, I really wish I had had time to call you but since I didn't I wanted to take this opportunity to apologize to you. I think the world of you personally and as an attorney and I have always enjoyed working with you and I hope you can understand my frustration over this situation.

Jack and I intend to get this situation with Billy Oswald straightened out now so this is not an issue for the Lazaro family in the future. Jack is writing Billy and Gene on this and we will probably request a Hearing to resolve this now. I look forward to hearing from you as to which way your carrier wants to proceed.

Sincerely yours,



Preston F. McDaniel

PFM/kic

cc: Jack Duncan, Esquire (via email)  
Gene Stockholm, Esquire (via email)

# **Exhibit D**

# The South Carolina Court of Appeals

Antonio Lazaro, by and through is GAL Decidora  
Lazaro, Employee, Respondent,

v.

Burriss Eelctrical, Inc., Employer, and Comptrust AGC  
of the Carolinas, Carrier, Appellants.

Appellate Case No. 2011-192272

---

## ORDER

---

On December 8, 2011, the parties filed a letter, stating they had "reached a settlement agreement regarding all of the issues on appeal" and requesting "that th[e] appeal be dismissed with prejudice." This court dismissed and remitted the case by order filed December 19, 2011. Appellants have now filed a motion to recall the remittitur, explaining that "subsequent events have caused the settlement to fall apart." Respondent filed a return, and Appellant filed a reply. After careful consideration, the motion to recall the remittitur is granted and the appeal is reinstated.

  
FOR THE COURT

Columbia, South Carolina

cc:  
Preston F. McDaniel  
John Earl Duncan  
Helen Faith Hiser  
Stephanie Nicole Lawrence  
Landon L. Hughey

**FILED**

*Clarter 6/6/12*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

---

WCC File No. 0710622

---

Antonio Lazaro, by and  
through his GAL Decidora Lazaro, Employee, ..... Respondent,

v.

Burriss Electrical, Inc., Employer,  
and  
CompTrust AGC of the Carolinas, Carrier, ..... Appellants.

---

**PROOF OF SERVICE**

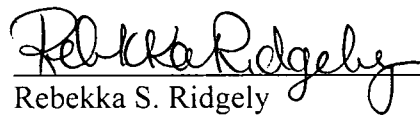
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I certify that I have served the Appellants' **Memorandum of Law** on Antonio Lazaro, by and through his GAL Decidora Lazaro, by depositing a copy of it in the United States Mail, postage prepaid, addressed to counsel of record:

Preston F. McDaniel, Esquire  
The McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, South Carolina 29201

John E. Duncan, Esquire  
137 East Butler Street, Suite 3  
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September 26, 2013



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*Attorneys for Appellants*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

WCC File No. 0710622

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SC COURT OF APPEALS

Antonio Lazaro, by and  
through his GAL Decidora Lazaro, Employee, ..... Respondent,

v.

Burriss Electrical, Inc., Employer,  
and  
CompTrust AGC of the Carolinas, Carrier, ..... Appellants.

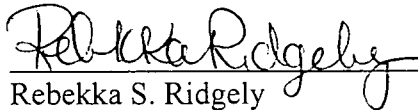
**PROOF OF SERVICE**

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