

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

RECEIVED

MAR 16 2017

SC Court of Appeals

Appellate Panel

W.C.C. No. 1301480

Ronnie McDonald, Employee..... Respondent,

v.

J Mac's Express, LLC, Direct Employer,  
Gregg Blakely Logging, Inc., Statutory Employer Employers, and  
WC Uninsured Employers Fund and Palmetto Timber Fund, Carriers, Defendants  
Of which Gregg Blakely Logging, Inc. and  
Palmetto Timber Fund are the..... Appellants.

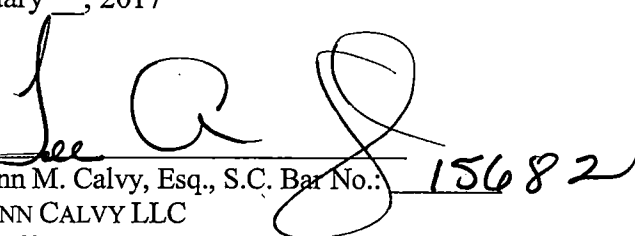
**JOINT MOTION TO DISMISS APPEAL**

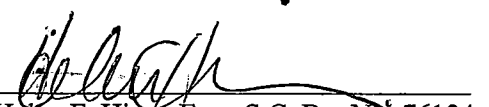
Pursuant to Rule 260(c) SCACR, Appellants Gregg Blakely Logging, Inc. and Palmetto Timber Fund and and Respondent Ronnie McDonald hereby jointly move to dismiss the appeal in the above-reverenced matter. This matter is currently pending before this Court on appeal from an Order of the South Carolina Worker's Compensation Commission. Appellants Gregg Blakely Logging, Inc. and Palmetto Timber Fund are represented by Helen F. Hiser, Esquire and Respondent Ronnie McDonald is represented by Joe Ann M. Calvy, Esquire. The parties have reached a settlement agreement regarding the issues on appeal. The parties have further agreed that each party will bear its own costs with respect to this appeal.

The parties hereby move to dismiss this appeal with prejudice. Under § 42-9-390 (Voluntary Settlements), for injuries occurring after July 1, 2007, and so long as both parties are represented by an attorney, the employer only needs to file a copy of the settlement agreement with the Commission. Respondent Ronnie McDonald alleged injuries arising out of a January 7, 2013 accident, and both parties have been represented throughout this case by counsel. The settlement agreement has been filed with the Commission and is attached hereto for the Court's files. As a result, no Commission approval is necessary in order to make this settlement final and binding. Therefore, this appeal should be dismissed without further delay.

This motion conforms with Rule 240 and Rule 267, SCACR.

February <sup>28</sup>, 2017

  
\_\_\_\_\_  
Joe Ann M. Calvy, Esq., S.C. Bar No.: 15682  
JOE ANN CALVY LLC  
Post Office Box 610  
Kingtree, SC 29556  
(843) 354-5504  
*Attorney for Respondent Ronnie McDonald*

  
\_\_\_\_\_  
Helen F. Hiser, Esq., S.C. Bar No. 76124  
MCANGUS GOUDELICK & COURIE, LLC  
P.O. Box 650007  
Mount Pleasant, South Carolina 29465  
(843) 576-2900  
*Attorneys for Appellants Gregg Blakely  
and Palmetto Timber Fund*

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1301480

RONNIE MCDONALD,

Employee,

Claimant,

vs.

GREGG BLAKELY LOGGING, INC.,

Employer,

AND

WALKER, HUNTER & ASSOCIATES,  
INC.,

Carrier,

Defendants.

**RECEIVED**  
SETTLEMENT  
FEB 23 2017  
Division of Claims  
SC Workers Comp. Comm.

**SETTLEMENT AGREEMENT  
AND RELEASE**

Ronnie McDonald "Claimant" alleges to have injured both hips, left leg, left knee, pelvis and left ankle and right shoulder, by accident arising out of and in the course of his employment with Gregg Blakely Logging, Inc. "Employer" on or about January 7, 2013 when he alleges he was hit and dragged by a log being carried by a crane.

Claimant's average weekly wage is \$608.18; and the compensation rate is \$405.47.

Claimant contends that he has sustained permanent disability in excess of any ratings by treating physicians; and Defendants dispute the Claimant's allegations and deny that any additional benefits are due and if permanent disability benefits are due, they should not be paid in a lump sum.

*Ronnie McDonald*

The parties have reasonably and adequately considered the interests of Medicare in reaching this compromise settlement agreement pursuant to 42 CFR §411.46 and §411.47, the Medicare intermediary manual, the Medicare carriers manual, and under the terms of the memorandum to All Associate Regional Administrators from Parashar B. Patel of the Centers for Medicare and Medicaid Services (CMS) dated July 23, 2001, and the subsequent related memoranda issued up to the date of this compromise settlement agreement, including, but not limited to, the Gerald Walters memorandum dated December 30, 2005, upon which the parties to this agreement expressly rely. Claimant is *not* currently receiving or determined to be eligible to receive Medicare benefits. Claimant has applied for Social Security Disability benefits, was denied, and has not reapplied. Claimant is not a Class I beneficiary as Claimant is not 65 years old or older, has not been on Social Security Disability for 24 months or longer, and is not in end stage renal disease.

Furthermore, it is the understanding of the parties that there is *not* a reasonable expectation that Claimant will be eligible to become a Medicare beneficiary within thirty (30) months of the date of this compromise settlement agreement and the total payout under the terms of this compromise settlement agreement will *not* exceed Two Hundred Fifty Thousand and NO/100 Dollars (\$250,000.00). Therefore, Claimant is not a Class II Medicare beneficiary.

Therefore, it is the understanding of the parties, based on the foregoing paragraphs, that it is *not* recommended nor required by Centers for Medicare and Medicaid Services (CMS) that this compromise settlement agreement be approved and/or reviewed by CMS in order to preserve Claimant's eligibility for Medicare coverage, as Claimant is not currently eligible for Medicare and not currently eligible for Social Security Disability benefits and this settlement does not

Ronnie McDonald

exceed Two Hundred Fifty Thousand and NO/100 Dollars (\$250,000.00). In that regard, the parties have reasonably considered the interest of Medicare in reviewing all medical records related to this matter and have in good faith determined that no allocation is needed and, therefore, propose that no monetary amount of the total settlement be allocated to pay for the anticipated future "qualified" Medicare-covered medical expenses Claimant will incur for treatment of the work injury. None of the parties in this matter, by entering into this compromise settlement agreement, is attempting to shift to the Federal Government or Medicare the responsibility for paying for medical treatment for these alleged work-related injuries and medical conditions.

Without in any way affecting the overall terms of this settlement insofar as Defendants are concerned, Claimant and his attorney hereby request this Commission to approve the allocation of the proposed settlement sum of One Hundred Ten Thousand Dollars and No Cents (\$110,000.00) as follows: Payment made hereunder shall be allocated by the Claimant in the following manner: of the total payment of One hundred ten thousand dollars (\$110,000.00), \$39,722 shall be allocated toward payment of attorney's fees and suit cost. The benefits for permanent disability to be paid as provided for herein are calculated at the rate of \$44.94 per week, commencing on March 15, 2017 and for a period of One Thousand Five Hundred Sixty Three and 64/100ths (1563.64) weeks thereafter, representing the remaining weeks of disability benefits owed to Claimant pursuant to Section 42-9-10 of the South Carolina Code of Laws (1976, as amended), and as interpreted by the South Carolina Supreme Court in the decision of *Utica-Mohawk Mills vs. Orr*, 227 S.C. 226.87.SE2d 589 (1955) and *James v. Anne's Inc.*, 2010 WL 4184120 (2010).

*Ronnie McDonald*

Claimant and his attorney represent that Claimant has been fully advised of his rights under the South Carolina Workers' Compensation Act and that they are of the opinion that the proposed settlement is reasonable and fair. Claimant's attorney represents that she has reviewed the settlement and has explained the terms fully to Claimant and Claimant voluntarily and without coercion agreed to the terms.

Claimant hereby relinquishes and releases each and every claim which he or anyone on his behalf now has, or may hereafter have, so that he shall not have any other or future claim or demand of any kind or nature as a result of the alleged accident described above.

The parties are hereby filing this SETTLEMENT AGREEMENT AND RELEASE with the South Carolina Workers' Compensation Commission as required by S.C. Code Ann. § 42-9-390.

WE CONSENT:

McAngus Goudelock & Courie, L.L.C.

Walter H. Barefoot  
Walter H. Barefoot  
Attorney for Defendants

Ronnie McDonald  
Ronnie McDonald  
Claimant

Joe Ann M. Calvy, Esquire  
Attorney for Claimant

Florence, South Carolina

Date: \_\_\_\_\_

**South Carolina Workers' Compensation Commission**  
P.O. Box 1715 • 1612 Marion Street  
Columbia, South Carolina 29202-1715  
(803) 737-5700

WCC File # 1301480  
Carrier File # \_\_\_\_\_  
Carrier Code # SF 827  
Employer FEIN \_\_\_\_\_

Ronnie McDonald  
Claimant's Name SSN 250-51-4219  
140 Barr Circle Kingstree SC 29556  
Address City State Zip  
Home Phone # \_\_\_\_\_  
Work Phone # \_\_\_\_\_  
Preparer's Name Mike Hainley  
Phone # \_\_\_\_\_

Greg Blakely/J Mac Express  
Employer's Name  
589 Sutton's Rd. Andrews SC 29510  
Address City State Zip  
PALMETTO TIMBER FUND  
Insurance Carrier  
Phone # (803) 798-4353

Compensation Paid:	Number of Weeks	From	To	Amount
1. Number of weeks T.T. -----	210 credit \$600.00	1/08/13	1/30/17	\$ 84,548.70
2. Number of weeks T.P. -----	_____	_____	_____	\$ _____
3. Number of weeks P.P. -----	_____	_____	_____	\$ _____
4. Disfigurement -----	_____	_____	_____	\$ _____
5. Agreement and Final Release -----	_____	_____	_____	\$ 110,000.00
Total Compensation Paid -----				\$ 194,548.70
6. Total Medical Benefits Paid -----	_____	_____	_____	\$ 14,721.77
7. Funeral Benefits -----	_____	_____	_____	\$ _____

**RECEIVED**  
FEB 23 2017  
Division of Claims  
S.C. Workers' Compensation  
Administrators

Case Denied

Date of Injury: 01/07/13  
month day year

By signing this receipt, I acknowledge that I have received the compensation shown above.

By: Ronnie McDonald  
Claimant

By: Walter H. Banfort  
Employer's Representative

Date: 2/21/17

Print or type the name of the person, other than the claimant, receiving benefits and sign below.  
By: \_\_\_\_\_

Report of additional Fees and Recoupment

- A. Carrier Reimbursement by Third Party ----- \$ \_\_\_\_\_
- B. Attorney's Fee Paid by Employer ----- \$ \_\_\_\_\_
- C. Attorney's Fee Paid by Claimant ----- \$ \_\_\_\_\_  
(Non-contingent fees, only)

File this form with the Claims Department according to R.67-414 and R.6 7-1204. A person, other than the claimant, receiving benefits should sign on the line provided. \* Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and impartial examination. Form 19 must be filed within sixteen days of final payment of compensation. Form 19 must be filed when a claim is denied.

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In The Court of Appeals

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WORKERS' COMPENSATION COMMISSION

Appellate Panel

W.C.C. No. 1301480

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v.

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WC Uninsured Employers Fund and Palmetto Timber Fund, Carriers, Defendants


Of which Gregg Blakely Logging, Inc. and

Palmetto Timber Fund are the ..... Appellants.

**PROOF OF SERVICE**

I certify that I have served the **Joint Motion to Dismiss Appeal** on Ronnie McDonald,  
by depositing a copy of it in the United States Mail, postage prepaid, on March 14, 2017,  
addressed to his attorney of record:

Joe Ann Calvy, Esq.  
JOE ANN CALVY, LLC  
P.O. Box 610  
Kingtree, SC 29556

  
Helen F. Hiser  
McANGUS GOUDELOCK & COURIE LLC  
735 Johnnie Dodds Blvd., Suite 200  
PO Box 650007  
Mount Pleasant, South Carolina 29465  
(843) 576-2900  
*Attorneys for Appellants*

mgc

**Reply To**

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

March 14, 2017

RECEIVED

MAR 16 2017

SC Court of Appeals

**Via U.S. Mail**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

RE: Ronnie McDonald vs. Gregg Blakely and Walker, Hunter & Associates, Inc.  
Date of Accident: January 7, 2013  
WCC File No.: 1301480  
Our File No.: 2069.14007  
Claim No.: 0001-0145-10-0001  
Appeal Tracking No.: 2016-000480

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of the parties' Joint Motion to Dismiss Appeal, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the self-addressed, stamped envelope. Also enclosed is our firm's check in the amount of \$25 for filing the motion.

If you have any questions, please do not hesitate to contact me

Very truly yours,



Helen F. Hiser

Enclosures

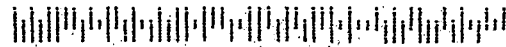
cc: Joe Ann Calvey, Esquire

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MGC  
P. O. Box 650007  
Mt. Pleasant, SC 29465

The Honorable Jenny Abbott  
Kitchings  
South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, SC 29211

