

North Carolina Workers' Compensation Update

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Supreme Court Reverses Decision in Jurisdiction Case

[Burley vs. US Foods, Inc.](#)

Vincent Burley, a truck driver and Georgia resident, began working for US Foods in 2000. Burley completed his pre-hiring paperwork, driving test, drug-screening and signed an employment contract with the company while in South Carolina. In 2002, US Foods closed the drop-yard Burley drove out of and offered him either a severance package or a transfer to a different division of the company. Burley chose to remain with the company and transferred to the Charlotte division. His job title and responsibilities remained the same. The transfer also involved a change in how Burley was compensated and he received a raise as a result. Burley's delivery route never included North Carolina at any time. The transfer to the Charlotte division was effectuated by administrative paperwork last signed by a human relations representative in the Charlotte division.

Burley was injured in September 2009 while making a delivery in Georgia. US Foods admitted compensability under Georgia law and denied the claim in North Carolina after Burley later filed a Form 18. Deputy Commissioner Baddour found the employment contract was not "made" in North Carolina because the "final act" to create the employment contract did not occur in North Carolina, and therefore the Commission did not have jurisdiction. The Full Commission affirmed. Burley appealed.

The North Carolina Court of Appeals reversed the Full Commission in a 2-1 decision. The Court of Appeals panel applied common law principles of contract formation to hold that when Burley was transferred to the Charlotte division, the terms of his employment contract changed and a new contract was created. The last act of this "new" contract occurred in North Carolina upon the approval of the Charlotte human relations representative.

The case was appealed to the North Carolina Supreme Court who reversed the Court of Appeals panel. In a 4-3 decision, the Court limited the jurisdiction under §97-36 strictly to an employment contract "made" (rather than modified) in North Carolina. The Court concluded that in light of the plain-language of the statute and upon consideration of decisions in other jurisdictions, §97-36 does not apply to a contract initially made in another state and subsequently modified in North Carolina. As such, Plaintiff's claim lacked subject matter jurisdiction.

For questions or more information, please contact one of MGC's [attorneys](#).

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ABOUT RJ WILLIAMS

RJ Williams' practice focuses on workers' compensation. He earned his juris doctor from Wayne State University School of Law and his bachelor of arts from the University of Michigan. RJ is a member of the North Carolina Bar Association, the Mecklenburg County Bar Association and the North Carolina Association of Defense Attorneys. To find out more about RJ, please visit his [biography](#).