

North Carolina Workers' Compensation Update (9)

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North Carolina Court of Appeals Lifts the Ban on Lump Sum Payouts in Permanent and Total Disability Claims

The North Carolina Court of Appeals published an opinion on March 1, 2022 that could adversely impact how you evaluate economic exposure in permanent and total disability claims. In *Blackwell v. NC Department of Public Instruction/Buncombe County Schools*, the injured employee sought to convert her total disability award of weekly payments to a lump-sum award. The Court of Appeals held that a lump sum payment *may* be awarded in a case where the plaintiff has been found permanently and totally disabled and entitled to weekly benefits for the rest of her life “however long that might be,” regardless whether the defendants consent or object to a lump sum payment.

The *Blackwell* ruling broadened the “Lump Sums” subsection of the *Workers' Compensation Act* by giving the Commission authority in *unusual* cases, such as permanent and total disability, to award a lump sum, *even where the sum of future payments is uncertain*. The Opinion outlines the requirements for a lump sum award. First, the Commission must determine whether a lump sum payment is in the best interest of the employee or their dependents. There must also be something peculiar in the employee’s case to make it “unusual.”

A lump sum award is not necessarily appropriate in all permanent and total disability cases. However, when a lump sum is awarded, consistent with the Statute, the Commission *should discount* the award at the appropriate discount rate.

Questions? Please contact an [MGC attorney](#).

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