

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

MISSISSIPPI LOGGERS SELF INSURED FUND, INC.

APPELLANT

versus

NUMBER 2007-WC-00554

HOWARD McDONALD, Claimant
ANDY KAISER LOGGING, Employer
TRI-LAKE TIMBER CO./MISSISSIPPI-PACIFIC CO.,
KCS LUMBER COMPANY,
COLUMBUS LUMBER CO., LLC

APPELLEES

CERTIFICATE OF INTERESTED

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Justices of the Supreme Court may evaluate possible disqualification or recusal.

1. Mississippi Loggers Self-Insured Fund, Inc., Appellant;
2. Steven D. Slade, Esq. - Attorney for Appellant;
3. Tri-Lake Timber Co./Mississippi-Pacific Co.¹ - Appellee[s];
4. Grain Dealers Mutual Insurance Company - Compensation Carrier for Tri-Lake (See fn.1);
5. Suzanne N. Saunders, Esq. - Attorney for Tri-Lake/Grain Dealers Mutual Ins. Co.;

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In the earlier part of these proceedings, these entities were substituted by Agreed Order (C.R., pp. 139-140), with the purpose being that the actual "named insured" of Grain Dealers Mutual Insurance Company was "Mississippi-Pacific Co." Corporate counsel for these entities, Mr. M. Lee Graves, Esq., had previously acknowledged that the entities were merely alter egos of one another. There being no dispute, the parties were substituted. However, for simplicity's sake, these "entities" have been collectively referred to throughout these proceedings simply as "Tri-Lake". Appellees will continue to do so for the purposes of this appeal and brief.

6. Andy Kaiser Logging, a sole proprietorship, William Andy Kaiser, proprietor, Employer;
7. Christopher E. Kelley, Esq., Gwin, Lewis & Punches, LLP - Attorneys for Andy Kaiser Logging;
8. KCS Lumber Company, Inc. - [alleged] Employer;
9. Indiana Lumbermen's Mutual Insurance Company - Compensation Carrier for KCS Lumber Company, Inc.;
10. Clifford B. Ammons, Esq., Watkins & Eager, PLLC - Attorneys for KCS Lumber Company, Inc./Indiana Lumbermen's Mutual Insurance Company;
11. Columbus Lumber Company, LLC - [alleged] Employer;
12. American Federated Insurance Company - Compensation Carrier for Columbus Lumber Company, LLC;
13. Richard M. Edmonson, Jr., Markow Walker, P.A. - Attorneys for Columbus Lumber Company, LLC/American Federated Insurance Company;
14. Howard McDonald - Claimant;
15. John T. Ball, Esq. - Attorney for Howard McDonald;
16. Honorable R. I. Prichard, III - Circuit Court Judge, Lawrence County;
17. Mississippi Workers' Compensation Commission, Phyllis Clark - Secretary.

 100699
CHRISTOPHER E. KELLEY

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SUMMARY OF THE ARGUMENT, ARGUMENT AND CONCLUSION

The Mississippi Loggers Self-Insured Fund, "the Fund," is primarily seeking relief via this appeal against a party other than Andy Kaiser Logging. Therefore, this response on behalf of Andy Kaiser Logging will be brief.

On the date of Howard McDonald's injury, the Fund held at least Eight thousand three hundred seventy-two dollars and twenty one cents (\$8,372.21) of Andy Kaiser Logging's money as premium deposits and prior overpayments. These amounts were later refunded to Andy Kaiser Logging. The Fund also had conducted itself in a manner that would render the mailing of the A-24 certificate practically irrelevant; irrelevant, that is, until a particularly large claim was made by Howard McDonald. Then the A-24 certificate was the technicality that was not subject to general concepts of equity, waiver, and estoppel. These matters are currently pending before the Adams County Circuit Court in Cause Number 98-0017-CV-J. They are pending and have been pending a determination of the existence or nonexistence of statutory employers or solely liable parties as determined by the Workers' Compensation Commission.

The relief requested by the Fund against Tri-Lake may ultimately impact Andy Kaiser Logging if the appeal to the Circuit Court of Lawrence County is reversed. However, Andy Kaiser Logging's ultimate relief will come in the Adams County Circuit Court once the matters solely within the jurisdiction of the Workers' Compensation

Commission are concluded.

Respectfully submitted this 12th day of July, 2007.

ANDY KAISER LOGGING

By: Christopher E. Kelley *gwin law firm 100699*
CHRISTOPHER E. KELLEY, Its Attorney

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CERTIFICATE OF SERVICE

I, Christopher E. Kelley, attorney for Andy Kaiser Logging, do hereby certify that I have delivered by U.S. Mail, postage prepaid, the foregoing **BRIEF OF APPELLEE ANDY KAISER LOGGING** to:

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Circuit Court Judge - Lawrence County
Post Office Box 1075
Picayune, Mississippi 39466

Mississippi Workers' Compensation Commission
Phyllis Clark - Secretary
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This the 12th day of July, 2007.

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