

PUBLICATION

Tennessee Employer Can Terminate Employee for Failing to Timely Report Injury

November 02, 2011

In its recent decision in *Geronimo vs. Caterpillar, Inc.*, the U.S. Court of Appeals for the Sixth Circuit upheld the termination of an employee who failed to comply with her employer's requirement that she report any workplace injury within 48 hours.

In *Geronimo*, the Plaintiff was transferred to a new job position on July 9, 2007. When she transferred to the position, she immediately began experiencing pain in her wrist. However, she did not report her wrist pain to Caterpillar for over a month. She finally reported the injury on August 14, 2007.

Caterpillar has a policy that requires employees to report injuries as soon as they are realized and suspected to be work related. Caterpillar verbally clarified this rule to indicate that gradually occurring injuries must be reported within 48 hours. Ms. Geronimo acknowledged that she was aware of these policies.

Because Ms. Geronimo failed to report her injury as required by the company's policy, she was fired. She filed a work comp retaliation lawsuit, claiming that Caterpillar's 48 hour reporting requirement violated Tennessee public policy. She argued that she had 30 days to report the injury. Pursuant to TCA §50-6-201(b), in the case of a gradual or cumulative injury, the injured employee must provide notice of the injury to the employer within 30 days after the employee knows or reasonably should have known of the injury, or is unable to work. Plaintiff argued that the 48 hour notice requirement conflicted with the statute, which allowed 30 days to report. However, the Court rejected Plaintiff's argument and found that the termination was lawful. The Court reasoned that "although the statute permits and employee to provide notice within 30 days for the purpose of obtaining workers' compensation, it does not expressly prohibit or establish a public policy prohibiting an employer from imposing separate notice requirements for workplace injuries."

The Court noted that Ms. Geronimo filed a workers' comp claim and received benefits. The Court's ruling simply applied to her employment status and not the workers' comp claim itself. Therefore, as a result of this case, a Tennessee employer may enforce a workplace injury reporting policy, even against an employee who is reporting an injury within the time permitted by statute.