

[Worker Fired for Not Timely Reporting Injury to Employer](#)

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If you think you've been injured on the job, report it immediately to your employer. That's the hard lesson learned recently by a [Tennessee Caterpillar employee](#) who was canned for failing to do so. Although she got compensation for her injury, the worker's compensation law did not prohibit her firing.

- Employee fired for failing to report workplace injury within 48 hours
- Company rules requiring early notification not prohibited by worker's comp law
- Employees getting squeezed by worker's comp trends

Worker's Comp No Safe Harbor for Reporting Injury

All states prohibit an employer for firing an employee for making a [worker's compensation claim](#). Most worker's compensation laws say an employee has to give notice of an injury no later than 30 days after its occurrence – especially if the injury is "gradually occurring," as repetitive motion injuries can be. In this case though, the employer, Caterpillar, had a company rule requiring employees to report injuries within 48 hours of occurrence.

The employee started having pain in her hands right after being transferred to a new assembly job. It was a couple of weeks before the pain was so great – and she'd researched carpal tunnel syndrome online – that she told a company nurse. She was fired the following day for violating the company's 48-hour rule.

She claimed she was [retaliated against](#) for giving notice of her injury and that the 48-hour rule contradicted the worker's comp notice provision. She lost on both counts.

When asked why she didn't report the pain sooner, the employee said she felt she needed to work through it to keep her job. With unemployment over 9 percent nationwide, and much higher in some places, that's an understandable concern. But what's the best course for an employee who's suffered an on-the-job accident or injury?

"Report it immediately," says [Andrew Neuwelt](#), a worker's compensation practitioner with [Franks & Koenig](#) in Florida and Georgia, "as soon you think you may have been involved in a workplace injury, accident or exposure."

Neuwelt points out, "There's no legal reason or benefit to not report the accident or injury." He acknowledges though the reality that, "as a practical matter there can be subtle pressure from management or coworkers then about your fitness to do your job, and that's a reality. But by failing to report it you not only run the risk of violating a workplace rule, like in this case, but also of hurting your ability to recover medical and indemnity (wage) benefits possibly available to you under your state's worker's compensation system."

"You don't have to go immediately to a doctor, but if something happens you should report the incident, detail every aspect of your pain or injury, and document this with some written communication, like a note or an email."



Andrew S. Neuwelt

Worker's Comp Trends Not Favorable to Employees

Reporting and documenting your injury is especially important now, Neuwelt notes, because of legal trends friendly to employers and insurance carriers and unfavorable to employees.

"Certain 'pro business' states in particular, like Florida and Texas, are becoming very tough on worker's comp," he says. This shows up in several ways, from coverage, to examinations to access to a claim even.

Neuwelt points out, "In many states the initial medical providers are often selected by the insurance company with the understanding employers and the insurance companies want workers back to work with minimal time and productivity lost. It's the employer's choice of doctors. Even when some states allow a second opinion it may be the carrier that chooses who that doctor is."

As for an employee's access to a claim, Neuwelt identifies a big problem: "In Florida, the attorney's fee schedule makes some claims impractical to pursue. While once an attorney who handled a claim was entitled to be paid an hourly rate, the fee is now geared to a percentage of the benefit attained by the injured worker. So while a \$10,000 award can make or break a worker's finances, a \$1,000 attorney's fee makes it impractical to try such a claim."

So every worker should heed the lesson learned the hard way by the CAT employee. Ignore your employer's rules and you're taking a big risk. It's tough enough already getting compensation for injury, and just keeping a job.

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