



June 2, 2016

High Court to hear willful misconduct case.

Back in January GWCA organized a group to submit an Amicus Brief urging the Georgia Supreme Court to accept the defendant's appeal of a lower court ruling in *Burdette v. Chandler Telecom*. On May 9, The Georgia Supreme Court granted the defendant employer's writ of certiorari, and oral arguments are expected in September. Subsequently, GWCA and other employer groups have again submitted a "friend of the court" brief, this time arguing the merits of the defendant's case.

In this case, the employee was injured when he ignored specific company policy and the direct admonishment of his supervisor not to rappel from a cell phone tower. An administrative law judge, the Appellate Division at the State Board of Workers Compensation, and the Superior Court all agreed that recovery was barred due to the willful misconduct of the claimant. The Court of Appeals disagreed, citing a 1929 case and adding that willful misconduct must involve "conduct of a quasi criminal nature"

The Court of Appeals ruling seems contrary to current law, which states that "No compensation shall be allowed for an injury or death due to the employee's willful misconduct, including intentionally self-inflicted injury, or growing out of his or her attempt to injure another, or for the willful failure or refusal to use a safety appliance or perform a duty required by statute." If this ruling stands, it could require payment of workers compensation benefits in most cases where the injury was the result of the claimant's willful misconduct.

GWCA was joined in filing the amicus brief by the Associated General Contractors of Georgia, Delta Air Lines, Georgia Manufacturers Association, Georgia Mining Association, Georgia Paper & Forest Products Association, and the Georgia Poultry Federation. The Moore Ingram Johnson and Steele law firm of Marietta prepared the brief.