



LABOR AND EMPLOYMENT

BALCH & BINGHAM LLP

BULLETIN September 30, 2004

Alabama • Georgia • Mississippi • Washington, D.C.

ILLEGAL ALIENS COVERED BY GEORGIA WORKERS' COMPENSATION ACT

The Georgia Court of Appeals cleared up any ambiguity about an illegal alien's entitlement to workers' compensation benefits in *Continental Pet Technologies, Inc., v. Palacias*, 2004 WL 2029607 (Sept. 13, 2004), by ruling that an illegal immigrant who had been injured on the job was entitled to receive workers' compensation benefits for her injury, even though she had submitted fraudulent documents to obtain employment with the company.

Juana Palacias had been in the United States illegally since 1994 and had been employed full-time by Continental Pet Technologies ("Continental") as a janitor during the five years preceding her workplace accident. Ms. Palacias utilized fraudulent documents to secure her employment with Continental. Continental argued that the Immigration Reform and Control Act (IRCA), which prohibits both the knowing hiring of an illegal immigrant, and the use of fraudulent documents to obtain employment, rendered void, the employment relationship between Continental and Palacias. The Court of Appeals unanimously rejected Continental's argument.

The Court of Appeals explained that Georgia's Workers' Compensation Act defines an employee as "every person in the service of another under any contract of hire or apprenticeship," and that federal law which seeks to punish employers for hiring illegal aliens does not override or preempt the coverage of Georgia's Workers' Compensation Act. The Court of Appeals reasoned that the goal of the IRCA is to reduce the incentives for employers to hire illegal aliens, and that that goal would be subverted by allowing employers to avoid workers' compensation liability for work-related injuries.

Even the employee's undisputed fraud in obtaining employment with Continental was insufficient to take away her right to recover workers' compensation benefits for her injuries. Absent a causal connection between the employee's misrepresentations and the injury suffered, the employee's fraud is no defense for an employer, the Court of Appeals ruled.

The Court's ruling makes clear that illegal aliens, including those who gain employment through fraudulent documentation, are nonetheless covered by the Georgia Workers' Compensation Act.

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