

# SUPREME COURT OF TENNESSEE

## Frances Barnett v. Milan Seating Systems

Barnett · No. No. W2006-00582-SC-R3-WC · Decided February 2, 2007

### SUMMARY

The Tennessee Supreme Court considered whether an employee remains employed by her pre-injury employer when that employer is purchased by a different entity, even though her job duties, location, and pay remain unchanged. The court held that the employee was no longer working for her pre-injury employer, so the 1.5 multiplier under Tennessee Code Annotated section 50-6-241(d)(1)(A) did not apply. The court affirmed the finding that the employee's carpal tunnel claim was barred by res judicata, reversed the multiplier ruling as to the cubital tunnel injury, and remanded.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                     |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Tennessee                                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | D. Michael Swiney, Special Judge; William M. Barker, Chief Justice; Janice M. Holder, Justice; Cornelia A. Clark, Justice; Gary R. Wade, Justice                                                                                                                                    |
| JURISDICTION          | Tennessee                                                                                                                                                                                                                                                                           |
| DECIDED               | February 2, 2007                                                                                                                                                                                                                                                                    |
| DOCKET                | No. W2006-00582-SC-R3-WC                                                                                                                                                                                                                                                            |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Direct appeal from the Gibson County Chancery Court in a workers' compensation action. The Tennessee Supreme Court accepted the appeal before review by a Special Workers' Compensation Appeals Panel.                                                                              |
| STANDARD OF REVIEW    | Questions of law in a workers' compensation case are reviewed de novo without a presumption of correctness. Factual issues are reviewed de novo on the record with a presumption of correctness for the trial court's factual findings unless the evidence preponderates otherwise. |
| PRECEDENTIAL VALUE    | Published Tennessee Supreme Court opinion; precedential state supreme court decision.                                                                                                                                                                                               |
| PARTIES               | Frances Barnett v. Milan Seating Systems                                                                                                                                                                                                                                            |

## TOPICS

workers compensation

statutory interpretation

res judicata

civil procedure

## PRACTICE AREAS

workers' compensation

employment law

civil procedure

## QUESTIONS PRESENTED

1. Whether Barnett was working for her pre-injury employer for purposes of the 1.5 multiplier in Tennessee Code Annotated section 50-6-241(d)(1)(A) after the company that employed her at the time of injury was purchased by a different entity.
2. Whether Barnett suffered a new compensable right-arm carpal tunnel injury, or whether res judicata barred her second claim because the same injury had been addressed in the prior settlement.

## HOLDINGS

1. An employee is not working for the pre-injury employer when the company employing the employee at the time of injury is purchased by a different company, even if the employee's workplace, duties, and pay remain unchanged. Accordingly, the 1.5 multiplier in Tennessee Code Annotated section 50-6-241(d)(1)(A) did not limit Barnett's recovery for the cubital tunnel injury.
2. Barnett did not suffer a new compensable right-arm carpal tunnel injury, and res judicata barred her second claim for additional vocational disability benefits for that same injury.

## KEY QUOTATIONS

*"We conclude that an employee is not working for her "pre-injury employer" when she returns to work and the company she was working for at the time of the injury then is purchased by a different company, and this is so even if the employee's place of work, job duties, and rate of pay remain unchanged."* (-1)

*"Perrin holds that an employee is no longer working for his or her pre-injury employer if that company is purchased by a new entity, and this is so even if that employee is performing the same job duties at the same rate of pay at the same location."* (-6)

*"Because Plaintiff did not suffer a new injury, res judicata bars Plaintiff's second claim on the same carpal tunnel injury."* (-9)

## FACTUAL BACKGROUND

Frances Barnett worked for Milan Seating Systems for approximately fourteen years performing forceful and repetitive work and developed bilateral carpal tunnel syndrome. Her first workers' compensation claim was settled in 2003, with vocational disability benefits awarded for both upper extremities and future medical benefits left open. After renewed right-hand symptoms, she underwent right carpal tunnel and cubital tunnel releases and filed a second action. Before trial, Milan Seating was purchased by Kongsberg Automotive; Barnett continued at the same location, performing the same job for the same pay, but was paid by the new entity.

## PROCEDURAL HISTORY

Barnett previously settled a workers' compensation claim involving bilateral carpal tunnel syndrome. She later filed a second action seeking compensation for right-arm carpal tunnel and cubital tunnel conditions. The chancery court held that the carpal tunnel claim was not a new injury and was barred by res judicata, found the cubital tunnel syndrome compensable, and limited recovery for that injury under the 1.5 multiplier in Tennessee Code Annotated section 50-6-241(d)(1)(A). The Supreme Court affirmed the res judicata ruling, reversed the multiplier ruling, and remanded.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand to the Gibson County Chancery Court for further proceedings consistent with the opinion, including determining Barnett's vocational disability to her right upper extremity arising from the cubital tunnel injury without applying the 1.5 multiplier.

## CASES CITED

- Perrin v. Gaylord Entm't Co., 120 S.W.3d 823, 824-27 (Tenn. 2003)
- Niziol, 8 S.W.3d at 624
- Parks, 974 S.W.2d at 679
- Freeman Indus., LLC v. Eastman Chem. Co., 172 S.W.3d 512, 519 (Tenn. 2005)
- Hamby v. McDaniel, 559 S.W.2d 774, 776 (Tenn. 1977)
- Houser v. Bi-Lo, Inc., 36 S.W.3d 68, 70-71 (Tenn. 2001)
- Uselton v. Conwood, No. 02S01-9607-CV-00070, 1997 WL 76807, at \*\*1, \*\*3-4 (Tenn. Workers' Comp. Panel Feb. 25, 1997)
- Cunningham v. Goodyear Tire & Rubber Co., 811 S.W.2d 888, 890 (Tenn. 1991)
- Talley v. Virginia Ins. Reciprocal, 775 S.W.2d 587, 591 (Tenn. 1989)
- Wall v. Wall, 907 S.W.2d 829, 832 (Tenn. App. 1995)
- McKinney v. Widner, 746 S.W.2d 699 (Tenn. App. 1987)
- Dickerson v. Godfrey, 825 S.W.2d 692, 694 (Tenn. 1992)
- Scales v. Scales, 564 S.W.2d 667, 670 (Tenn. App. 1977)
- Morris v. Esmark Apparel, Inc., 832 S.W.2d 563, 566 (Tenn. App. 1991)