



**TENNESSEE BUREAU OF WORKERS' COMPENSATION  
IN THE COURT OF WORKERS' COMPENSATION CLAIMS  
AT NASHVILLE**

|                                 |   |                                  |
|---------------------------------|---|----------------------------------|
| <b>GERALD C. COON,</b>          | ) |                                  |
| <b>Employee,</b>                | ) | <b>Docket No. 2018-06-0018</b>   |
| <b>v.</b>                       | ) |                                  |
| <b>COMMERCIAL WAREHOUSE AND</b> | ) |                                  |
| <b>CARTAGE, INC.,</b>           | ) | <b>State File No. 96917-2017</b> |
| <b>Employer,</b>                | ) |                                  |
| <b>And</b>                      | ) |                                  |
| <b>WESTFIELD GROUP,</b>         | ) | <b>Judge Joshua Davis Baker</b>  |
| <b>Insurance Carrier.</b>       | ) |                                  |
|                                 | ) |                                  |

**ORDER GRANTING EMPLOYER'S  
MOTION FOR SANCTIONS**

The Court convened on June 18, 2018, for a hearing of Commercial Warehouse and Cartage, Inc.'s (Commercial's) motion for sanctions under Tennessee Rule of Civil Procedure 11. Mr. Coon filed a response opposing the motion. The Court grants the motion and imposes sanctions as explained below.

In its motion, Commercial claims Mr. Coon violated Rule 11 when he filed his "Request for Immediate Hearing" on May 14, 2018. In that filing, Mr. Coon alleged that Commercial's counsel, or an associate of Commercial's counsel, contacted Mr. Coon's physician, Dr. Chine Logan, and falsely claimed to represent Mr. Coon in this case. He further alleged that that counsel attempted to coerce or intimidate Dr. Logan by making false or misleading statements.

Commercial denied the allegations and provided an affidavit supporting the denial. It also provided a declaration under penalty of perjury from Brian Jackson, the manager of Dr. Logan's clinic, who acknowledged speaking with Commercial's counsel concerning fees and deposition dates. Mr. Jackson denied that counsel misidentified himself or made any attempt to coerce or alter testimony to be provided at a deposition. Additionally, Mr. Coon admitted he based his allegations only on a conversation he had with Dr. Logan; Mr. Coon had no sworn testimony.

Tennessee Rule of Civil Procedure 11.02 ensures validity of filings. Pertinent here, Rule 11.02 states that by filing documents with the Court, the person filing certifies “to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances” that the filing: (1) is not being for an improper purpose such as to embarrass, harass, or needlessly increase litigation costs; or (2) contains allegations or asserts facts that either have evidentiary support or will likely have evidentiary support after reasonable additional discovery. The trial court must apply a standard of “objective reasonableness under the circumstances” when determining whether conduct warrants sanctions. *See Hooker v. Sundquist*, 107 S.W.3d 532, 537 (Tenn. Ct. App. 2002).

Tennessee Rule of Civil Procedure 11.03 allows Courts to sanction parties who violate Rule 11.02. “Sanctions are appropriate when an attorney submits a motion or other paper on grounds which he knows or should know are without merit, and a showing of subjective bad faith is not required.” *Hooker*, 107 S.W.3d at 537. “A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.” Tenn. R. Civ. P. 11.03(2). The sanctions can be monetary or nonmonetary and can include an order to pay the opposing party’s attorney fees and/or expenses, or an order to pay a penalty. *Id.*

Mr. Coon alleged that Commercial’s counsel falsely told Dr. Logan that he represented Mr. Coon in an attempt to improperly influence the doctor’s testimony. Mr. Coon’s only basis for this allegation came from statements he attributed to Dr. Logan. This evidence is inadmissible hearsay. Furthermore, Commercial’s counsel filed responses and provided sworn testimony refuting the allegation. Commercial sent Mr. Coon a letter informing him it would seek sanctions if he failed to withdraw the pleading. Mr. Coon failed to withdraw the pleading. When presented with sworn testimony refuting the allegations of malfeasance, and having no sworn testimony to support the allegations firsthand, the Court finds Mr. Coon’s actions objectively unreasonable under the circumstances. The Court therefore holds that Mr. Coon’s filing violated Tennessee Rule of Civil Procedure 11.02 as it asserted facts that have no evidentiary support and that are unlikely to have evidentiary support after reasonable discovery.

As a sanction, **Mr. Coon shall pay a civil penalty of \$25 into the Court.** The Court also warns Mr. Coon that the Court will impose more severe sanctions on him if he commits similar acts in violation of Rule 11.02 in the remaining course of litigation of this claim.

It is therefore ORDERED as follows:

1. Mr. Coon shall pay a civil penalty of \$25.00 in the Court for his violations of Tennessee Rule of Civil Procedure 11.02. The payment shall be made within five

days of entry of this order. It may be made by check or money order and shall be payable to the "State of Tennessee."

2. If Mr. Coon commits additional violations of Rule 11.02 in the course of this claim, the Court will impose sanctions of escalating severity, up to and including, dismissal of his claim.

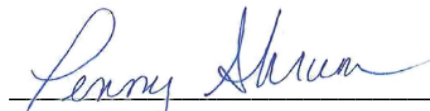
**ENTERED ON JULY 24, 2018.**

  
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**Judge Joshua Davis Baker**  
**Court of Workers' Compensation Claims**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was sent to the following recipients by the following methods of service on July 24, 2018.

| <b>Name</b>           | <b>Certified Mail</b> | <b>Via Fax</b> | <b>Via Email</b> | <b>Addresses</b>   |
|-----------------------|-----------------------|----------------|------------------|--|
| Gerald C. Coon        |                       |                | X                | <a href="mailto:coon_36@hotmail.com">coon_36@hotmail.com</a>         |
| Thomas W. Tucker, III |                       |                | X                | <a href="mailto:tomtucker@bellsouth.net">tomtucker@bellsouth.net</a> |

  
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Penny Shrum, Court Clerk  
Court of Workers' Compensation Claims  
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