

PUBLIC EMPLOYEES CONSTITUTIONAL RIGHT TO A PRETERMINATION HEARING (“LOUDERMILL RIGHTS”)

In another decision announcing a Constitutional right for public employees not possessed by private employees, the Supreme Court in *Cleveland Board of Education v. Loudermill* held that most public employees are entitled to a hearing before they are discharged. However, the “hearing” is not a full evidentiary hearing and need not include the opportunity to cross-examine your accusers. All that is required is:

1. Oral or written notice of the charges and time for hearing;
2. An explanation of the employee’s evidence; and
3. An opportunity to present “his side of the story.”

Further, since the issuance of the *Loudermill* decision, the lower courts have strictly limited the remedy for Loudermill violations. Specifically, an employee deprived of his Loudermill rights is not entitled to reinstatement if the employer can prove that there was just cause for the discharge in any case.