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2026 MIDWINTER MEETING REPORT OF 2025 CASES

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The Table of Contents for this Report follows the current outline of the treatise on the Family and Medical Leave Act, which is jointly published by the American Bar Association and Bloomberg Law.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

CHAPTER 1.
HISTORY, STRUCTURE, AND ADMINISTRATION OF THE FMLA

I. Overview

II. History of the Act

A. Early Initiatives

1. The Parental and Disability Leave Act of 1985

2. The Parental and Medical Leave Act of 1986

3. The Family and Medical Leave Act of 1987

4. The Parental and Medical Leave Act of 1988

5. The Family and Medical Leave Act of 1989

6. The Family and Medical Leave Act of 1991

B. Enactment of the Family and Medical Leave Act of 1993

1. The 103rd Congress

2. Congressional Findings

C. The 2008 Military Family Leave Amendments (National Defense Authorization Act for Fiscal Year 2008)

Summarized elsewhere

***Williams v. Bd. of Trs. of Univ. of Alabama*, 128 F.4th 1208, 1212 (11th Cir. 2025)**

D. The 2009 Military Family Leave Amendments (National Defense Authorization Act for Fiscal Year 2010)

E. The 2009 Airline Flight Crew Technical Corrections Act

III. Provisions of the FMLA

A. General Structure

B. Provisions of Title I

IV. Regulatory Structure of the FMLA

A. The DOL's Regulatory Authority

1. The 1995 Regulations

2. The 2009 Regulations

3. 2013 Final Regulations

B. Judicial Deference to the DOL's Regulations

Summarized elsewhere

***Easterling v. Cnty. of Delaware*, 2025 WL 623651 (E.D. Pa. Feb. 25, 2025)**

V. The Role of the DOL in Administering and Enforcing the FMLA

A. Administrative Action

1. Initiation of Administrative Complaints

2. DOL Investigation

a. Investigation Authority

b. Subpoena Power

3. Resolution of Complaint

4. Posting Violations

a. Appealing a Penalty Assessment for a Posting Violation

b. Consequences of Not Paying the Penalty Assessed

B. Enforcement Action

1. Actions by Secretary of Labor

2. Actions for Injunctive Relief

Summarized elsewhere

***Cote v. Rhode Island*, 2025 WL 691387 (D.R.I. Mar. 4, 2025)**

C. Wage and Hour Division Opinion Letters

CHAPTER 2.

COVERAGE OF EMPLOYERS

I. Overview

II. Private Sector Employers

***Chapla v. Father Judge High School*, 2025 WL 333759 (E.D. Pa. Jan. 29, 2025)**

Plaintiff, a Catholic school principal, brought claims under the FMLA and other statutes against his former employers following his termination. Defendants moved for summary judgment on the grounds that plaintiff's claims were barred as a matter of law by the ministerial exception, which exempts religious employers from coverage by federal civil rights and employment laws. The district court agreed and granted summary judgment for defendants, finding that although plaintiff served as the school's principal, he had significant responsibility for the religious education program of the school, oversaw school ministry, attended every mass, led prayer at faculty meetings, served as a Eucharistic minister on one occasion, among other duties. Further, plaintiff's performance as a "Catholic Witness" was assessed as part of his performance evaluation, the Court noted that "the record is replete with examples showing Plaintiff's key role in conveying the Church's message and carrying out its mission, and Defendants considered plaintiff a "key religious leader" of the school. As such, the court held that the ministerial exception applies to a lay principal who performed important religious functions for the school, so his claims under the FMLA and other statutes are barred as a matter of law.

A. Basic Coverage Standard

***Huston v. Frontier Imaging Servs.*, 2024 WL 5057590 (E.D. Ark. Dec. 10, 2024)**

Plaintiff sued his former employer in the United States District Court for the Eastern District of Arkansas for FMLA retaliation, among other claims. Defendant moved for summary judgment. The court found summary judgment was appropriate because the FMLA did not apply to defendant. Defendant had eighteen employees at the time of the alleged retaliation, whereas the FMLA only covers employers with fifty or more employees. The court granted summary judgment on plaintiff's retaliation claim.

B. Who is Counted as an Employee

Summarized elsewhere

***Chapla v. Father Judge High School*, 2025 WL 333759 (E.D. Pa. Jan. 29, 2025).**

1. Location of Employment

2. Payroll Status

3. Independent Contractors

III. Public Employers

Summarized elsewhere

***De La Torre v. Fink*, 2025 WL 460757 (D. Md. Feb. 11, 2025)**

A. Federal Government Subdivisions and Agencies

***Conley v. Dept. of Veterans Affairs, et al.*, 2025 WL 2525856 (W.D. Tenn., Sept. 2, 2025)**

Plaintiff Conley, proceeding *pro se*, alleged her employer and other individuals violated the FMLA by, among other things, terminating her employment. This decision addressed when federal employees have a private right of action under the FMLA.

The Magistrate Judge granted defendants' motion to dismiss and/or for partial summary judgment. The District Court adopted the Magistrate Judge Report and Recommendation. Plaintiff worked for the Dept. of Veterans Affairs Medical Center in Memphis, TN. On January 26, 2017, she filed employment discrimination claims against the VA and the VA settled with her. Plaintiff alleged that defendants breached the agreement to offer her a new position within an agreed-upon time and the Court liberally construed her claims to include FMLA violations.

The Court concluded that it did not have subject matter jurisdiction over Plaintiff's FMLA claim because, under Title II of the FMLA, federal employees with more than 12 months of service do not have a private right of action. Appeal is pending at the Sixth Circuit.

1. Coverage Under Title I

***Harrison v. Dep't of Veteran Affs.*, 2025 WL 2426372 (E.D. Mich. Aug. 21, 2025)**

Plaintiff worked for defendant federal agency. The court granted defendant's Motion for Summary Judgment on grounds that plaintiff lacked standing sue. The FMLA only grants standing to private sector employees covered by Title I of the FMLA as opposed to Title II, which applies to federal employees. Because plaintiff was a Title II employee, she could not maintain a private cause of action against defendant.

2. Civil Service Employees

Summarized elsewhere

***Harrison v. Dep't of Veteran Affs.*, 2025 WL 2426372 (E.D. Mich. Aug. 21, 2025)**

3. Congressional and Judicial Employees

B. State and Local Governments and Agencies

***Mook v. City of Martinsville, Va.*, 2025 WL 1589282 (W.D. Va. Jun. 5, 2025)**

Plaintiff, a former Assistant Commonwealth's Attorney, sued defendant for FMLA interference. Defendant terminated plaintiff after accusing him of falsifying a record in conjunction with an FMLA leave request. Although plaintiff admitted that he filled out the FMLA form and sought a signature from a nurse, he denied deceiving the nurse about the reason he needed the nurse's signature. When defendant's assistant told him that plaintiff had completed the form himself and had allegedly told the nurse that he needed a sick leave excuse signed (as opposed to an FMLA leave form), defendant terminated plaintiff, declining plaintiff's offer to go

back and get the FMLA form signed by the doctor. The court denied defendant's motion for summary judgment on plaintiff's claims of FMLA interference because it found that genuine disputes of material fact existed as to whether plaintiff's alleged dishonesty was truly the reason for defendant terminating plaintiff's employment or whether it was pretext to avoid granting plaintiff's FMLA request.

The court concluded that defendant was an employer under the FMLA, as the Commonwealth's Attorney is an agency of a political subdivision of a State. The court rejected defendant's argument that as a Virginia constitutional officer, his duty of loyalty and performance was to the people who elect him in a particular jurisdiction, rather than the Commonwealth of Virginia as a whole.

The court also found that defendant was not entitled to qualified immunity because the FMLA regulations clearly establish an employee's rights, and the specific regulation in this case established that defendant should have first notified plaintiff and given plaintiff an opportunity to cure if it believed that someone other than a healthcare provider filled out plaintiff's FMLA form.

***Mulfort v. State of Florida*, 2025 WL 101579 (M.D. Fla. Jan. 15, 2025)**

Plaintiff, a former Chief of Staff and Director of Public Affairs for the State Attorney's Office, sued her employer, the State of Florida – Office of the State Attorney for the Ninth Judicial Circuit, as well as the State Attorney for the Ninth Circuit, for FMLA interference and retaliation. The alleged retaliation, which culminated in her termination, followed plaintiff's use of FMLA after she gave birth to her daughter and when she asked for additional leave after being diagnosed with post-partum depression. Plaintiff alleged that less than a week after defendants learned of her post-partum depression diagnosis and need for additional leave, they directed her to perform work-related activities and terminated her when she did not perform them.

The district court denied defendant's motion for summary judgment on plaintiff's FMLA claims, finding that defendants had not carried their initial burden with respect to their argument that plaintiff was not an employee under the FMLA. Specifically, although there is an exception to the definition of "employee" under the FMLA for "personal staff" of public officeholders, this exception does not apply to employees who are "subject to the civil service laws" of the state, political subdivision or agency that employs them. The Court found that defendants failed to address whether plaintiff was subject to the civil service laws, and therefore they failed to meet their initial burden as movant.

IV. Integrated Employers

***Blain v. Rausch Creek Generation LLC*, 2025 WL 2796767 (M.D. Pa. Sept. 29, 2025)**

A heavy equipment operator sued his power-plant employer, alleging ADA/PHRA violations and FMLA interference based on the employer's failure to designate his absence as FMLA-qualifying and for allegedly considering protected leave in his termination. The court granted summary judgment for the employer after it showed that plaintiff's employment was

terminated for excessive absenteeism after months-long leave during which he failed to timely provide medical clearance or documentation despite repeated requests.

On the FMLA interference claim, plaintiff argued coverage via the "integrated employer" or "joint employer" doctrines to reach the 50-employee threshold. The court rejected the claim because plaintiff failed to properly develop the factual record or comply with local Rule 56.1 in opposing summary judgment, and the admissible record did not establish FMLA coverage under either theory. The record lacked evidence of common management, centralized control of labor relations, or interrelation of operations sufficient to show an integrated or joint employer. The court also noted that two of plaintiff's theories—considering FMLA leave in the decision and firing to prevent future leave—were foreclosed by his own admission that he was terminated for excessive absenteeism.

Because plaintiff did not carry his burden on employer coverage and could not show denial or restraint of any FMLA right, the court entered summary judgment for the employer on the FMLA interference claim. Appeal is pending at the Third Circuit.

***Brown v. Amesbury Mgmt., LLC*, 2025 WL 936654 (M.D. La. Mar. 27, 2025)**

Plaintiff sued her former employer, including asserting claims under the FMLA. Defendant moved for summary judgment on both claims. The court granted summary judgment on the FMLA claim, finding that defendant was not an "employer" under the FMLA because it did not employ at least 50 individuals. Although plaintiff argued that defendant and a related entity should be considered a single integrated employer, the court found that the entities failed to meet the integrated employer test, which evaluates factors such as common management, continuity of the work force, and likeness of products or services.

Additionally, the court held that plaintiff was not an "eligible employee" under the FMLA, which requires that at least 50 employees work within 75 miles of the employee's worksite. Defendant employed only 30 employees in Louisiana and 25 in Texas. Plaintiff attempted to rebut this with payroll protection plan loan data showing a higher number of jobs, but the court found this evidence insufficient, as it did not specify the location of the jobs. Accordingly, the court granted summary judgment in favor of defendant on the FMLA claim.

V. Joint Employers

A. Test

B. Consequences

C. Allocation of Responsibilities

VI. Successors in Interest

***Easterling v. Cnty. of Delaware*, 2025 WL 623651 (E.D. Pa. Feb. 25, 2025)**

Note: There are numerous opinions for this case. The above citation is for the order affirming the court's award of summary judgment to defendant/denying plaintiff's motion for reconsideration on the successor in interest issue.

Plaintiff, a correctional worker, brought claims against defendant alleging, *inter alia*, interference and retaliation under the FMLA. Plaintiff suffered from spinal stenosis and was unable to work more than twelve consecutive hours. After defendant assumed control of the correctional facility from plaintiff's former employer, a private correctional management entity, defendant determined all employees would be required to work up to sixteen-hour shifts due to a labor shortage. Defendant then terminated plaintiff for failure to complete this mandatory overtime, stating: "[B]ecause of your medical condition, you are unable to perform the essential functions of the job."

Plaintiff's FMLA claims survived defendant's first motion for summary judgment because plaintiff had established *prima facie* cases. However, the United States District Court for the Eastern District of Pennsylvania later granted summary judgment in favor of defendant because plaintiff was not an eligible employee under the FMLA. Plaintiff had not worked for defendant for 12 months, and the court held that defendant was not a successor in interest of plaintiff's former employer. Plaintiff moved for reconsideration on the issue of successor in interest under the FMLA. Plaintiff argued the court unlawfully ignored a regulation promulgated by the Secretary of Labor that broadened the definition of a successor in interest. The court denied the motion. Relying on *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), the court held that a regulation defining successor in interest was not necessary to carry out the FMLA. Thus, as a question of law, the construction of the term successor in interest was exclusively a judicial function. Because there had been no merger or acquisition of assets between defendant and plaintiff's former employer, the court held defendant was not a successor in interest and plaintiff was ineligible for FMLA relief.

A. Test

B. Consequences

VII. Individuals

***Hackemann-Bahlmann v. Kansas State Univ.*, 2025 WL 1784930 (D. Kan. Jun. 27, 2025)**

Plaintiff, who worked as a professor, alleged that she requested and was denied FMLA leave. Plaintiff then sued the university and two individuals in their individual and official capacities. The court denied defendant's motion to dismiss for lack of subject matter jurisdiction with respect to suing the individuals in their individual capacities but granted defendant's motion with respect to the lawsuit's attempts to hold the individuals liable in their official capacities.

As to individual liability, the court held that "FMLA permits individual liability and the economic reality test determines whether an individual qualifies as an FMLA employer." The economic reality test, which is derived from the FLSA, consists of four elements, which are whether the alleged employer "(1) had the power to hire and fire the employees, (2) supervised and controlled employee work schedules or conditions of employment, (3) determined the rate

and method of payment, and (4) maintained employment records." Plaintiff met factor (2) because defendant exercised planning, scheduling recruitment and program development for its professors. Factor (4) was also satisfied because defendant maintained plaintiff's employment records. While plaintiff could not meet the two other factors, the court still concluded Plaintiff met the economic realities test because the individuals "controlled a sufficient part of plaintiff's rights under the FMLA."

The court, however, granted defendant's motion for lack of subject matter jurisdiction with respect to plaintiff's attempts to hold the individuals liable in their official capacities. It initially observed that the Eleventh Amendment would bar this theory because the state university had not consented to suit. However, plaintiff argued that it could still maintain plaintiff's claims against the individuals in their official capacity based on *Ex Parte Young*, which held that such claims are appropriate to seek prospective relief where ongoing violations exist. That prospective relief, according to plaintiff, was the power of the individuals to reinstate her. The court, however, disagreed after reviewing policy manuals of the university which clearly gave that the power exclusively to defendant's president. Because the individuals were not the president of the university, *Ex Parte Young* was inapplicable, and the Eleventh Amendment barred Plaintiff's claims against the individuals in their official capacities.

***Linardos v. Juthani et al.*, 2025 WL 887693 (D. Conn. Mar. 21, 2025)**

Plaintiff, a former employee in defendant Connecticut Department of Public Health's HIV Surveillance Program, filed a lawsuit including numerous claims against the Department and several individual defendants, including a claim of FMLA interference and retaliation against one of the individual defendants. Defendants filed a motion to dismiss plaintiff's FMLA claims, arguing that plaintiff had failed to allege facts to establish that the individual defendant was liable as an employer under the FMLA.

In denying defendants' motion to dismiss plaintiff's FMLA claims, the court noted that, in the context of the FMLA, "courts assessing the economic reality of an employment relationship have construed [the economic reality test] as asking essentially whether the putative employer 'controlled in whole or in part plaintiff's rights under the FMLA." Drawing all inferences in plaintiff's favor, the court concluded that plaintiff had plausibly alleged that the individual defendant, who was a labor relations representative who issued plaintiff letters conveying adverse actions and to whom plaintiff had reported FMLA retaliation and other grievances, at least in part controlled plaintiff's rights under the FMLA.

***Vasquez v. Univ. of Texas Health Sci. Ctr., 2*025 WL 1558352, (S.D. Tex. May 13, 2025), *report and recommendation adopted,* 2025 WL 1557326 (S.D. Tex. Jun. 2, 2025)**

Plaintiff, the Building Superintendent at the Jesse Jones Library, brought an FMLA retaliation suit against his employer, the University of Texas Health Science Center and individual defendant David F. Johnson, his direct supervisor. In this decision, the Court evaluated whether an individual defendant was entitled to qualified immunity on plaintiffs' FMLA claim. The court determined that Johnson's decision to terminate Plaintiff was a discretionary act that falls within the scope of qualified immunity. The court determined that the uncontroverted evidence establishes that during the period plaintiff was out on FMLA leave,

Johnson learned of misfeasance that occurred prior to his leave, and plaintiff was terminated due to that misfeasance as well as a prior written reprimand for unprofessional conduct. Because this evidence was unrebutted. Because plaintiff could not show that Johnson violated his FMLA rights, Johnson was protected by qualified immunity and entitled to summary judgment on Plaintiff's FMLA retaliation claim.

***Zam v. Mizuho Americas Servs., LLC*, 2025 WL 935003 (S.D.N.Y. Mar. 27, 2025)**

Plaintiff, a policy strategist, sued her former employer and direct supervisor, Steve Gatto, alleging FMLA retaliation because her employment was terminated shortly after requesting FMLA leave. Defendants moved for summary judgment with respect to Gatto, arguing that plaintiff did not demonstrate his involvement or knowledge of her FMLA leave. The court granted defendants' motion for summary judgment, finding that Gatto did not qualify as an "employer" under the FMLA.

To determine whether an individual is an employer under the FMLA, the court applies the "economic reality test" which considers factors such as the power to hire and fire, control over work conditions, determination of pay, and maintenance of employment records. The court found no evidence that Gatto exercised any such control over plaintiff's employment. Notably, plaintiff did not allege that Gatto was aware of her FMLA leave request or that he played any role in her termination. Therefore, the court granted summary judgment in favor of defendants on the FMLA retaliation claim.

Summarized elsewhere

***Kammerer v. Univ. of Kansas*, 2024 WL 5135969 (D. Kan. Dec. 17, 2024)**

***Williams v. Westchester Med. Ctr. Health Network*, 2025 WL 903757 (S.D.N.Y. Mar. 25, 2025)**

CHAPTER 3.

ELIGIBILITY OF EMPLOYEES FOR LEAVE

I. Overview

II. Basic Eligibility Criteria

***Bland v. E.J. Willman & Sons*, 2025 WL 1262058 (W.D. Ky. Apr. 30, 2025)**

A plumber sued his small construction employer in Kentucky state court asserting, among other claims, FMLA retaliation; the case was removed to the U.S. District Court for the Western District of Kentucky. The pleadings alleged the company employed at most a dozen workers within 75 miles during the relevant period. On an unopposed Rule 12(c) motion (construed under Rule 12 standards without converting to summary judgment), the court dismissed the FMLA claim with prejudice because the employer did not meet the statutory coverage threshold and plaintiff was not an "eligible employee."

Relying on the complaint's admission that the employer had only eight to twelve employees, the court held the employer was not covered under the FMLA, which requires 50 or more employees within 75 miles, and plaintiff was ineligible under the statute's employee-count criteria. Because FMLA coverage is jurisdictional to entitlement, the court did not need to reach the 12-months/1,250-hours eligibility elements or any merits-based retaliation analysis. Because coverage and eligibility are threshold requirements, the retaliation claim failed as a matter of law.

***Boykins v. SEPTA*, 2025 WL 2777577 (E.D. Pa. Sept. 26, 2025)**

Plaintiff, a long-serving electrician, brought suit in the U.S. District Court for the Eastern District of Pennsylvania alleging, among other claims, FMLA interference and retaliation after the employer denied his intermittent leave requests. The court granted summary judgment to defendant on both counts. Although plaintiff asserted he met the 1,250-hour threshold by November 2021, he offered no medical records, healthcare provider certification, or other evidence substantiating a qualifying "serious health condition" that rendered him unable to perform his job.

On the FMLA interference theory, the court held that entitlement to leave is an essential element, and absent proof of a serious health condition there can be no denial of FMLA benefits. Plaintiff's cursory references to a "serious medical condition," without certification or other competent evidence, were insufficient as a matter of law. The court observed that he failed to submit a timely healthcare provider certification despite notice and opportunity, and his bare doctor's notes did not establish incapacity, a regimen of continuing treatment, or any period of inability to perform essential job functions.

For FMLA retaliation, the court concluded plaintiff failed at the threshold to show he availed himself of protected rights because he was not entitled to leave in the first instance. Even assuming protected activity, the employer articulated legitimate, non-retaliatory reasons for its other employment decisions, and plaintiff failed to show pretext. The court found no evidence of suspicious timing, inconsistent explanations, or differential treatment of similarly situated employees who sought FMLA leave. Summary judgment was granted in favor of the employer on all FMLA claims. Appeal is pending at the Third Circuit.

III. Measuring 12 Months of Employment

***Lee v. Yellow Checker Star Transportation Taxi Mgmt.*, 2025 WL 1095017 (D. Nev. Apr. 10, 2025)**

Plaintiff brought suit in the District Court for the District of Nevada against defendant, a taxi company, for retaliation and interference under the FMLA. Defendant brought a motion to dismiss plaintiff's complaint for failure to state a claim, arguing that it was not plaintiff's employer, but even if it were, plaintiff was employed for less than twelve months and thus not eligible for FMLA benefits.

The court granted defendant's motion to dismiss, holding that plaintiff did not qualify as an eligible employee because he failed to allege he was employed for twelve months. It is established in the Ninth Circuit that a plaintiff must show he is an eligible employee to bring an FMLA interference claim. While the Ninth Circuit has not explicitly held the same to be true for

retaliation claims, the court followed other district courts and the Sixth and Eleventh Circuits in holding that eligible employees are the only private parties authorized to bring an FMLA retaliation claim against an employer, despite the language of § 2615(a) prohibiting employers from retaliating again "any individual." As such, the court held that plaintiff had not adequately alleged he was an eligible employee and dismissed plaintiff's interference and retaliation claims.

IV. Measuring 1,250 Hours of Service During the Previous 12 Months

***Cain v. Jackson Public School District*, 2025 WL 2701696 (S.D. Miss. Sept. 22, 2025)**

The district court issued rulings on a number of motions in limine filed by both parties on issues relating to plaintiff's FMLA claims. First, the court denied plaintiff's motion to exclude evidence or argument of any claim that plaintiff did not work sufficient hours to be eligible for FMLA leave, failed to give notice of her need for FMLA leave, or had run out of FMLA leave, on the grounds that an issue of fact remained as to whether defendant properly and timely notified her that she was ineligible for FMLA leave. Second, the court granted plaintiffs' motion to exclude arguments that the only hours worked which count for purpose of the FMLA are those worked on site, because under the FMLA hours worked at home may be counted toward an employee's total work hours. For the same reason, the court denied defendant's motion to exclude evidence of additional work hours that plaintiff performed at home because she cannot calculate the exact hours worked. Finally, the court denied plaintiff's motion to exclude evidence or arguments about plaintiff meeting FMLA requirements that were not raised by defendant as a basis for denied FMLA at the time it was denied, because plaintiff must show as a part of her prima facie case of interference that she was entitled to take FMLA leave and gave proper notice of her intention to do so. The court held that evidence and arguments regarding these topics are therefore relevant and should not be excluded. Appeal is pending at the Sixth Circuit.

***Canning v. Washington Cnty.*, 781 F. Supp. 3d 1103 (D. Or. 2025)**

Plaintiff brought suit against her former employer, the Washington County Sheriff's Office, for several claims including FMLA interference in the District Court of Oregon. Plaintiff claimed she experienced differential treatment after reporting another officer's dishonesty. She was then investigated for an alleged theft and defendant placed her on paid administrative leave. During this leave, plaintiff's commission as a deputy sheriff was suspended, she was not allowed to conceal a weapon, and she had to surrender all firearms, identification cards, and defendant-owned electronics. She completed some active work and had to answer phone calls twice daily. A few months later, her FMLA request was denied because she did not meet the 1,250 minimum hours required. Defendant's records did not include the hours plaintiff worked during her administrative leave.

Plaintiff argued defendant's exclusion of these hours interfered with her FMLA rights. Even if not directly applicable, the court applied the *Brigham* test, which stated that 1) the degree to which the employee is free to engage in personal activities and 2) the agreements between the parties determined compensable on-call waiting time. The court found that generally, plaintiff effectively had the freedom to use her time as she wished and that there was no clear agreement between defendant and plaintiff on whether those hours counted. Therefore, the entire 688 hours during administrative leave did not count towards FMLA eligibility. The court denied summary

judgment on the FMLA claim as there was still a genuine dispute over whether the 79 hours plaintiff worked on active assignments for defendant's benefit during her administrative leave should count. The court found that plaintiff demonstrated sufficient evidence to show defendant wrongfully placed her on administrative leave.

***Glasgow-McCall v. Harris County, et al.*, 2025 WL 2782330 (S.D. Texas Sept. 30, 2025)**

Terminated deputy constable brought suit against county employer alleging FMLA interference. Defendants denied plaintiff = FMLA leave in one instance. Plaintiff later was terminated when she was physically unable to return to work at the expiration of a separate, granted FMLA leave.

The Court granted summary judgment to defendants. The Court held that plaintiff was not eligible for FMLA leave in the first instance because she had not worked the required number of hours over the previous 12 months, having only worked 1,075 hours. The Court also held that plaintiff's termination could not form the basis of an interference claim because plaintiff used all available FMLA leave and was only terminated when she was physically unable to return to work after exhausting her FMLA leave.

Plaintiff has filed a Motion for Reconsideration in this case

***Myers v. Sunman-Dearborn Cmty. Sch.*, 142 F.4th 527 (7th Cir. 2025)**

Plaintiff-appellant, an elementary instructional aide for defendant school district, appealed the district court's grant of summary judgment to defendant-appellee on all claims including those for FMLA interference and anticipatory retaliation. The Seventh Circuit appellate court affirmed the lower court's ruling.

After the death of her mother and husband, Plaintiff struggled with depression and was absent 25.8 days during the school year. Plaintiff eventually applied for FMLA leave and was approved. A new school year started and plaintiff returned to work. Within a short amount of time, plaintiff exceeded her allotted 11 days of combined leave. Plaintiff alleges the principal spoke to her in a harsh tone and followed up with a written warning expressing concern for the excessive absences from work and expectation for a drastic improvement. The next day, plaintiff resigned.

The appeals court noted that plaintiff did not clearly distinguish between her interference and retaliation theories of liability. She claimed that defendant's threat to fire her if she continued to miss work and the subsequent written warning prevented her from applying for future FMLA leave. The court found that since plaintiff worked less than the 1,250 hours set by statute, and conceded ineligibility, that defeated her FMLA claims. However, the court nonetheless found that plaintiff failed to show that she had a serious health condition entitling her to FMLA leave and that there was no evidence that plaintiff gave defendant notice of her intent to take FMLA leave. The court further declined to entertain the appellant's 'anticipatory interference' alternative claim, finding the above grounds sufficient to uphold the lower district court's ruling.

***Ross v. Terracon Consultants, Inc.*, 2025 WL 2390422 (D. Kan. Aug. 18, 2025)**

Plaintiff sued her former employer under the FMLA for her discharge shortly after she applied for FMLA leave and when she was just 113 hours short of being eligible for said leave. Defendant filed a motion for summary judgment. The court granted the motion for summary judgment concluding that Plaintiff was not an eligible employee whose FMLA rights could be interfered with, restrained, or denied since she was short of the 1,250 hours required for eligibility.

Summarized elsewhere

***Thomas v. United States Postal Serv.*, 2024 WL 5047461 (E.D. Mich. Dec. 9, 2024)**

V. Determining Whether the Employer Employs Fifty Employees within 75 Miles of the Employee's Worksite

***Ramirez v. PHI Health, LLC*, 762 F. Supp. 3d 596 (S.D. Tex. 2025)**

Plaintiff, a flight nurse formerly employed by an airlift provider in Texas, sued her former employer for retaliation under the FMLA, alleging defendant had terminated her in retaliation for requesting medical leave on several occasions. Defendant moved for summary judgment, which the district court granted with respect to plaintiff's FMLA claims because she was not an "eligible employee" under the FMLA. The location at which plaintiff worked during her tenure with defendant employed fewer than 20 employees. Defendant's only other location within 75 miles also employed fewer than 20 employees, meaning the total employees in a 75-mile radius was fewer than 50, and that plaintiff was not an eligible employee as a matter of law.

Plaintiff argued that defendant was equitably estopped from arguing that she was not an eligible employee under the FMLA because it had previously represented to her that she was covered by the FMLA. Finding no actual detrimental reliance on defendant's representation by plaintiff, however, the district court rejected this theory, granting summary judgment for defendant.

A. Determining the Number of Employees

Summarized elsewhere

***Brown v. Amesbury Mgmt., LLC*, 2025 WL 936654 (M.D. La. Mar. 27, 2025)**

***Ramirez v. PHI Health, LLC*, 762 F. Supp. 3d 596 (S.D. Tex. 2025)**

B. Measuring the Number of Miles

C. Determining the Employee's Worksite

VI. Individuals Who Are Deemed To Be Eligible Employees Under the FMLA

***Robbins v. Candy Digital Inc.*, 2024 WL 5056429 (S.D.N.Y. Dec. 9, 2024)**

Plaintiff sued his former employer, its CEO, its "Head of People," and its controlling investors under the FMLA. Plaintiff alleged defendants interfered with his FMLA rights when, after he notified them of his intent to take parental leave later in the year (and after one year of work at the employer), defendants denied his request stating that he was not yet eligible for such leave, ignoring, and not informing plaintiff, the fact that he would become eligible under the FMLA later that year. Plaintiff also alleged defendants retaliated against him in violation of the FMLA by firing him about two months after his notification that he would be taking parental leave. The employer-defendants filed a motion to dismiss and, in the alternative, a motion for summary judgment. The court denied both of the employer-defendants' alternative motions for the reasons stated below. The individual defendants also moved to dismiss, which the court granted, finding that plaintiff failed to plead facts sufficient to show that they were his employer for purposes of the FMLA.

The district court noted the "difficult" question as to whether plaintiff was an eligible employee since he was not eligible for FMLA leave either when he notified the employer of his intent to take parental leave or when he was fired about two months later, and stated that such a question had never been explicitly addressed by the Second Circuit. After analyzing Second Circuit opinions as well as the decisions of other Circuits, the court concluded that because the FMLA requires employees give advance notice for foreseeable leave and permits employees to take FMLA leave beginning on the date they become eligible, the FMLA protects employees before they are eligible to take leave under the statute. Further, the court recognized that the FMLA protects "employees," not just "eligible employees." Therefore, since plaintiff's requested leave would have begun after he became an eligible employee, he is protected by the FMLA.

Additionally, the court considered the viability of the employee's FMLA leave request under the FMLA provision on "placement . . . for adoption," ultimately stating that there was insufficient evidence to grant defendant's motion for summary judgment. Moreover, the court suggested that an employee with a good faith and reasonable belief that they can take FMLA leave is protected from retaliation when they request such leave.

Summarized elsewhere

***Mulfort v. State of Florida*, 2025 WL 101579 (M.D. Fla. Jan. 15, 2025)**

***Ross v. Terracon Consultants, Inc.*, 2025 WL 2390422 (D. Kan. Aug. 18, 2025)**

***Young v. Monroe Cnty.*, 2025 WL 1640857 (W.D. Wis. Jun. 10, 2025)**

VII. Exception for Certain Airline Employees

CHAPTER 4.

ENTITLEMENT OF EMPLOYEES TO LEAVE

I. Overview

II. Types of Leave

Summarized elsewhere

***Fagalnifin v. First Technology Fed. Credit Union*, 2025 WL 1735386 (E.D. Cal. Jun. 23, 2025)**

A. Birth and Care of a Newborn Child

B. Adoption or Foster Care Placement of a Child

Summarized elsewhere

***Robbins v. Candy Digital Inc.*, 2024 WL 5056429 (S.D.N.Y. Dec. 9, 2024)**

C. Care for a Covered Family Member with a Serious Health Condition

Summarized elsewhere

***Warner v. Health Carousel, LLC*, 2025 WL 1207750 (S.D. Ohio Apr. 25, 2025)**

1. Eligible Family Relationships

***Duncan v. Kearfott Corp.*, 2025 WL 1752322 (D.N.J. Jun. 25, 2025)**

Plaintiff, a human resources manager, filed a claim to enforce FMLA rights for leave to care for a sibling. Plaintiff claimed that defendants, her employer and its parent company, terminated her in retaliation for requesting leave to care for her brother, who had a serious medical condition. Defendants moved for summary judgment which the court granted, concluding that the FMLA did not entitle plaintiff to the protections she claimed.

Plaintiff requested FMLA leave to care for her brother, who had a serious medical condition, but did not establish that she stood *in loco parentis* to him, a requirement for FMLA leave for siblings. Though plaintiff had to use paid time off to care for him, defendants did not deny plaintiff the opportunity to take leave and did not formally record her leave as FMLA leave. Plaintiff also claimed that defendants terminated her in retaliation for her leave request. However, the court found that defendants terminated plaintiff due to a restructuring of the HR department, independent of her leave request, which defendants had already planned. The court noted that defendants informed plaintiff that her position might be eliminated before she finalized her leave request.

The decision in this case rests on the theory that the FMLA did not entitle plaintiff to leave because her request did not qualify as she did not stand *in loco parentis* to her sibling. The

court noted that *in loco parentis* involves having day-to-day responsibilities to care for and financially support a child or having had such responsibilities when the individual was a child, and that a biological or legal relationship is not necessary. However, plaintiff did not provide evidence of an *in loco parentis* relationship with her brother.

Summarized elsewhere

***Texas A&M Univ. v. Snider*, 721 S.W.3d 607 (Tex. App. 2025)**

a. Spouse

b. Son or Daughter

c. Parent

d. Certification of Family Relationship

2. "To Care for"

D. Inability to Work Because of an Employee's Own Serious Health Condition

Summarized elsewhere

***Gabbard v. Butler Cnty, Ohio*, 2025 WL 874731 (S.D. Ohio Mar. 20, 2025)**

***Lishego v. Tri Star Motors, Inc.*, 2025 WL 755532 (W.D. Pa. Mar. 10, 2025)**

***Thomas v. United States Postal Serv.*, 2024 WL 5047461 (E.D. Mich. Dec. 9, 2024)**

E. Qualifying Exigency Due to a Call to Military Service

Summarized elsewhere

***Williams v. Bd. of Trs. of Univ. of Alabama*, 128 F.4th 1208, 1212 (11th Cir. 2025)**

1. Covered Military Members

2. Qualify Exigency

a. Short Notice Deployment

b. Military Events and Related Activities

c. Childcare and School Activities

i. Leave to Arrange for Alternative Childcare

ii. Leave to Provide Childcare on an Urgent Basis

iii. Leave to Enroll in or Transfer to a New School or Daycare Facility

iv. Leave to Attend Meetings with School or Daycare Staff

d. Financial and Legal Arrangements

e. Counseling

f. Rest and Recuperation

g. Post-Deployment Activities

h. Additional Activities

3. Eligible Family Relationships

F. Care for a Covered Servicemember with a Serious Injury or Illness

Summarized elsewhere

***Williams v. Bd. of Trs. of Univ. of Alabama*, 128 F.4th 1208, 1212 (11th Cir. 2025)**

1. Covered Servicemembers

2. Serious Illness or Injury

3. Eligible Family Relationships

4. Relationship to Leave to Care for a Family Member with a Serious Health Condition

III. Serious Health Condition

***Gargas v. Estes Express Lines, Inc.*, 2025 WL 860034 (N.D. Ohio Mar. 19, 2025)**

Plaintiff, a combo driver, filed suit against Estes Express Lines, Inc., a freight transportation trucking company, after being removed from the eligible driver list and subsequently terminated. Plaintiff brought interference and retaliation claims under the FMLA, among other claims.

After a trucking accident, plaintiff was diagnosed with supraventricular tachycardia ("SVT"). Plaintiff took a series of sleep tests and was deemed unfit to drive at night, as the position occasionally required. Defendant removed plaintiff from the list of eligible drivers and directed plaintiff to take FMLA leave. Although plaintiff stated SVT did not impact his ability to work, plaintiff requested and was granted leave for a serious health condition. Plaintiff then requested reinstatement. Defendant instructed plaintiff to apply for a different position within the company. Plaintiff did not apply, and defendant terminated plaintiff.

Plaintiff argued defendant interfered with FMLA rights by failing to reinstate plaintiff and mandating plaintiff to take unnecessary FMLA leave. The parties filed cross-motions for summary judgment. Relying on Sixth Circuit law, the District Court for the Northern District of Ohio noted that plaintiff's nighttime work restriction did not "militate a finding of incapacity" and held plaintiff had not established SVT was a serious health condition. Thus, because plaintiff could not establish entitlement to FMLA benefits, plaintiff could not allege interference. The court also rejected plaintiff's involuntary leave theory as unripe, noting such a claim only ripens when plaintiff is later denied FMLA leave because plaintiff was wrongfully forced to take FMLA leave in the past. Applying the *McDonnell Douglas* test, the court also rejected plaintiff's retaliation claim. Defendant disputed the causal connection and offered plaintiff's inability to work at night as a legitimate, non-discriminatory reason for firing plaintiff. Plaintiff could not prove defendant's proffered reasoning was pretextual. The court granted defendant's motion for summary judgment on the FMLA claims but denied summary judgment on plaintiffs' non-FMLA related claims.

***Holland v. Texas Christian Univ.*, 2025 WL 1002434 (N.D. Tex. Apr. 3, 2025)**

Plaintiff, an investigator in the Office of Institutional Equity, sued Texas Christian University, alleging interference, discrimination, and retaliation under the FMLA. On February 21, 2023, plaintiff requested and was granted FMLA leave related to mental health. Upon returning to work, defendant terminated plaintiff, alleging plaintiff neither received inpatient care nor was incapacitated during leave. The District Court for the Northern District of Texas held plaintiff had failed to establish that he suffered from a serious health condition. Plaintiff did not seek inpatient care, and statements from plaintiff's therapist that plaintiff was "running on fumes" were insufficient to establish plaintiff's inability to work. Thus, plaintiff was ineligible for FMLA leave as a matter of law, and defendant was not liable for claims under the FMLA. The court similarly rejected plaintiff's equitable estoppel argument, noting plaintiff did not rely on defendant's statements and that plaintiff testified that he would have used vacation time if the FMLA request was denied. The court granted defendant's motion for summary judgment. This decision was later affirmed on appeal. *Holland v. Texas Christian Univ*., 2025 WL 2588997 (5th Cir. Sept. 8, 2025).

***McCray v. Miami Dade County Public Schools*, 2024 WL 4867099 (11th Cir. 2024)**

The Florida district court dismissed plaintiff's FMLA interference claim for failing to allege that her mental impairment was a "serious health condition" and for failing to show she provided defendant notice of her need for FMLA leave. On appeal, plaintiff challenged only the finding that her complaint failed to sufficiently plead a serious health condition. The court of appeals agreed with the district court that plaintiff's allegation of a "mental impairment that did substantially limit her life activity of being a security staff member at a public school" and that she had a "substantial mental lapse that was apparently not self-resolving" was not sufficient to state a claim for relief under the FMLA. The court held that a complaint under the FMLA must allege facts indicating that her condition involved "inpatient care in a hospital, hospice, or residential medical care facility" or "continuing treatment by a health care provider."

***Tatum v. 10 Roads Express, LLC, et al.*, 760 F. Supp. 3d 615 (N.D. Ill. 2024)**

Plaintiff was a long-term employee of defendant employer, first as a trucker and then as a day shift lead weekend supervisor overseeing trucking operations. Plaintiff left the office in the middle of a shift, texted his supervisor suggesting he had quit, and went to the hospital where he received medical treatment and was discharged the same day. Defendant employer did not allow plaintiff to return to work because it deemed plaintiff had quit. Plaintiff alleged FMLA interference and FMLA retaliation and defendants moved for summary judgment on both claims.

As to the interference claim, the court found that because plaintiff had received medical care but felt better the following day and asked if he could return to work, plaintiff did not suffer from a "serious health condition" and thus granted defendants' motion for summary judgment as to FMLA interference. As to the retaliation claim, the court granted summary judgment in favor of the employer because he was not covered by the statute as he did not suffer from a serious health condition to invoke coverage.

Summarized elsewhere

***Boykins v. SEPTA*, 2025 WL 2777577 (E.D. Pa. Sept. 26, 2025)**

A. Overview

B. Inpatient Care

Summarized elsewhere

***Holland v. Texas Christian Univ.*, 2025 WL 1002434 (N.D. Tex. Apr. 3, 2025)**

C. Continuing Treatment

1. Incapacity for More Than Three Consecutive Calendar Days and Continuing Treatment by a Health Care Provider

***Lucas v. Allegiance Specialty Hosp. of Greenville*, 2025 WL 2111089 (N.D. Miss. Jul. 28, 2025)**

Plaintiff sued defendant alleging FMLA retaliation and interference due to her termination of employment with defendant. While under investigation for altering timecards to delete overtime, plaintiff requested a vacation day off to deal with stress and anxiety. At the same time, defendant decided to terminate plaintiff as a result of its investigation but wanted to wait until plaintiff returned to work to terminate her in person. When plaintiff continued to take time off, defendant ultimately terminated plaintiff via email and first-class mail.

Defendant filed a motion for summary judgment. The court held that plaintiff's casual discussions with HR regarding stress and anxiety and text messages that she saw a doctor and was referred to therapy would not have alerted defendant to plaintiff's need for FMLA leave, but that an email she forwarded to HR from her counselor requesting time off of work so that plaintiff could work with her provider and attend therapy to reach a level of stability was

sufficient to put defendant on notice even though it did not include any anticipated duration of leave.

However, the court then found that plaintiff had not demonstrated that she had had a serious health condition because she was not incapacitated for more than three full calendar days. The court also found plaintiff did not demonstrate she had a chronic serious health condition and did not request FMLA leave for that condition. Although plaintiff's retaliation claim failed since she had not demonstrated a serious health condition, the court nonetheless also found plaintiff had not demonstrated a causal connection between her FMLA request and her termination because the investigation into her behavior that resulted in her termination began before she requested FMLA leave. The court granted defendant's motion for summary judgment on the retaliation claim.

The court also found that plaintiff's interference claim failed for similar reasons as her retaliation claim since plaintiff cannot demonstrate that she suffered from a serious health condition or chronic serious health condition. The court granted defendant's motion for summary judgment on the interference claim.

a. Incapacity for More than Three Calendar Days

b. Continuing Treatment

Summarized elsewhere

***Mahramus v. Freshmark, Inc.*, 2025 WL 918522 (N.D. Ohio Mar. 26, 2025)**

c. Treatment by a Health Care Provider

***Mahramus v. Freshmark, Inc.*, 2025 WL 918522 (N.D. Ohio Mar. 26, 2025)**

Plaintiff, a general laborer, sued her former employer for FMLA interference, *inter alia*. Defendant moved for summary judgment on all of plaintiff's claims. The district court granted summary judgment for defendant, holding that plaintiff did not establish that she suffered from a "serious health condition" that rendered her unable to work. The court emphasized that an employee's personal assessment of her health is insufficient. Instead, a medical professional must conclude that the employee cannot perform her job due to the health condition.

Plaintiff submitted four notes from medical providers. Three of these merely stated that she needed to be excused from work, without identifying a serious condition or explaining her inability to work. The fourth note stated that she was not at a functional status for her occupational duties and recommended that she abstain from work until her condition stabilized. However, the note lacked any diagnosis, description of symptoms, or explanation of the evaluation conducted. The court found that these notes did not establish that a medical provider had determined she was unable to work due to a serious health condition.

2. Pregnancy or Prenatal Care

3. Chronic Serious Health Condition

Summarized elsewhere

Lucas v. Allegiance Specialty Hosp. of Greenville, 2025 WL 2111089 (N.D. Miss. Jul. 28, 2025)

4. Permanent or Long-Term Incapacity

5. Multiple Treatments

D. Particular Types of Treatment and Conditions

1. Cosmetic Treatments

2. Treatment for Substance Abuse

3. "Minor" Illnesses

4. Mental Illness

Summarized elsewhere

***Holland v. Texas Christian Univ.*, 2025 WL 1002434 (N.D. Tex. Apr. 3, 2025)**

***McCray v. Miami Dade County Public Schools*, 2024 WL 4867099 (11th Cir. 2024)**

CHAPTER 5.

LENGTH AND SCHEDULING OF LEAVE

I. Overview

II. Length of Leave

A. General

B. Measuring the 12-Month Period

C. Special Circumstances Limiting the Leave Period

1. Birth, Adoption, and Foster Care

2. Spouses Employed by the Same Employer

D. Effect of Offer of Alternative Position

E. Required Use of Leave

Summarized elsewhere

***Gargas v. Estes Express Lines, Inc.*, 2025 WL 860034 (N.D. Ohio Mar. 19, 2025)**

F. Measuring Military Caregiver Leave

III. Intermittent Leaves and Reduced Leave Schedules

Summarized elsewhere

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

A. Entitlement to Take Intermittent Leaves or Leaves on a Reduced Schedule

***Dolch v. Sixth Jud. Cir.*, 2025 WL 1309512 (M.D. Fla. May 6, 2025)**

Plaintiff, an HR employee with the Sixth Judicial Circuit of Florida, sued her employer for, among other things, FMLA retaliation and interference. Plaintiff requested intermittent FMLA leave to care for her husband and father. Her supervisor requested she submit a set schedule she could work while on intermittent leave, which she was unable to do because she was uncertain when her family would need care. Therefore, she was forced to go on full-time FMLA leave. She resigned soon after returning from FMLA leave due to concerns about being asked to record leave incorrectly.

Plaintiff brought interference and retaliation claims under the FMLA because she requested to go on intermittent leave but her supervisor required a set leave schedule, and because after she returned from FMLA leave, her employer revoked her unlimited VPN access and gave her new responsibilities. Her employer moved to dismiss these claims.

The court allowed her interference claim to proceed, finding that her employer could have plausibly interfered with her attempt to exercise her FMLA rights. The court found that leave may be taken under the FMLA "intermittently or on a reduced leave schedule," and intermittent leave and reduced leave schedules have different definitions. Intermittent leave "is FMLA leave taken in separate blocks of time due to a single qualifying reason," and by requiring her to provide a set schedule, the employer interfered with this right to intermittent leave.

However, the court found Plaintiff had not stated a claim of FMLA retaliation because although she engaged in statutorily protected activity by taking FMLA leave, her adverse employment action allegations lacked factual specificity to make them plausible.

Summarized elsewhere

***Eggleston v. Johns Hopkins Health System Corp.*, 2025 WL 2344692 (D. Md. Aug. 13, 2025)**

***Mendez v. Logan General Hosp.*, 2025 WL 2798507 (S.D.W.V. Sept. 26, 2025)**

B. Eligibility for and Scheduling of Intermittent Leaves and Leaves on a Reduced Schedule

C. Measuring Use of Intermittent Leaves and Leaves on a Reduced Schedule

***Stapleton v. Prince Carpentry, Inc.*, 2025 WL 2591519 (E.D.N.Y. Sept. 8, 2025)**

Plaintiff was a long-term employee of defendant who was injured in a car accident, resulting in her taking extensive leave, including FMLA leave, to recover from her injuries. Her employment was terminated thereafter.

Amongst other claims, plaintiff asserted claims of FMLA interference and retaliation. Defendant moved for summary judgment on both claims. In relation to the interference claim, plaintiff argued defendant had failed to provide notice of FMLA rights, including in the employee handbook. Defendant argued there could not be an interference claim because plaintiff had taken the full twelve weeks of leave allowed under the statute. The court noted that while the FMLA requires employers to provide certain notices of rights, failure to provide such notice may be compensable only if the failure to provide notice interfered with an employee's ability to structure leave to preserve the job protections afforded by the FMLA. The court explained that the question for summary judgment then is whether plaintiff was prejudiced and the notice failure caused plaintiff to lose her job. Although it was unclear which portions of leave were

treated by the employer as FMLA leave and when plaintiff could return to work, the court granted summary judgment in favor of the employer because even if its delay in providing FMLA notice caused confusion, plaintiff was not fired until after the date she believed was the correct exhaustion date. Moreover, plaintiff had provided no evidence as to how she would have behaved differently if there had not been ambiguity in relation to the FMLA notice.

As to the FMLA retaliation claim, the district court also granted summary judgment in the employer's favor, finding plaintiff abandoned the claim by not presenting arguments in opposition to defendant's arguments that she was not qualified for her position at the time of termination and plaintiff had not established that the decision to terminate her employment when she did not return to work after the leave ended was in retaliation for plaintiff taking FMLA leave.

Summarized elsewhere

***Gabbard v. Butler Cnty, Ohio*, 2025 WL 874731 (S.D. Ohio Mar. 20, 2025)**

A. Posting Requirements

Summarized elsewhere

***Holley v. BBS/Mendoza, LLC*, 2025 WL 1095303 (S.D. Ohio Apr. 14, 2025)**

B. Other General Written Notice

C. Consequences of Employer Failure to Comply with General Information Requirements

III. Notice by Employee of Need for Leave

***Ahmann v. Blattner Holding Company, LLC*, 2025 WL 776312 (D. Minn. Mar. 11, 2025)**

An instructional designer sued her employer in the District of Minnesota for FMLA interference and retaliation. Two years into her employment, plaintiff was fired, approximately six months after returning to work from a lengthy hospital stay. Plaintiff alleges she was on FMLA leave at the time of her termination, but defendant claims to never have received information about plaintiff's FMLA leave. At the summary judgment stage, the district court denied defendant's motion for summary judgment on both the interreference and retaliation claims, holding that genuine issues of material fact remained.

For the interference claim the court found genuine issues of material fact for each element. For element one, while plaintiff's primary care physician had completed the FMLA paperwork, plaintiff's neurologist did not believe that FMLA leave was necessary. For element two, plaintiff informed her direct supervisor she was sick, though defendant denied knowledge of the need for FMLA leave. For element three, while defendant admits that plaintiff was never informed of her FMLA rights and plaintiff's FMLA absences were not recorded, defendant denied knowledge that plaintiff was on intermittent FMLA leave. For element four, while plaintiff was allowed to attend all necessary appointments, plaintiff's FMLA absences were considered in evaluating her performance.

For the retaliation claim, the court found that plaintiff met her prima facie showing of discrimination or retaliation by showing that negative performance reviews resulted from asking about FMLA leave. For pretext, however, there remains a genuine dispute. Plaintiff argued that she was met with hostility upon her return, and that the bonus she received showed appropriate performance. Defendant argues that plaintiff was fired for a failure to implement and respond to feedback.

***dela Cruz v. DeJoy*, 2025 WL 66043 (9th Cir. Jan. 10, 2025)**

A former United States Postal Service ("USPS") worker filed a claim against the USPS Postmaster General, alleging that the USPS impermissibly used his FMLA-protected leave as a reason to terminate his employment. The district court found that the employee did not provide his employer with the required notice of leave, leading to a judgment against him which the Ninth Circuit affirmed. The decision to affirm rested upon the employee's failure to prove that he provided sufficient notice of his intent to take FMLA leave, which is a necessary element to succeed in an FMLA interference claim.

The Ninth Circuit found that the district court did not clearly err in its findings, affirming the district court's denial of the employee's motion for reconsideration because the employee did not present new law or show clear error that would merit reconsideration, and he did not provide newly discovered evidence. Additionally, the court declined to consider claims asserted for the first time on appeal or claims that were dismissed without prejudice and not repleaded.

***Futch v. Freedom Preparatory Academy, Inc.*, 2025 WL 1669358 (W.D. Tenn. Jun. 12, 2025)**

Plaintiff, a sixth grade teacher, sued his former employer under the FMLA for interference and retaliation. Plaintiff was repeatedly absent from work to care for himself and his daughters. He emailed the Head of School and another administrator asking if they could assist him with the FMLA process and notified them that he intended to request FMLA leave. Both administrators told him to contact the Human Resources director, whom the Head of School separately contacted to discuss the situation. Two days later, the Human Resources Director recommended that the Head of School schedule a meeting to end plaintiff's employment.

Plaintiff subsequently followed up with the Human Resources Director about any information she could share about the FMLA process, stating that he had yet to receive information. She referred him to the HR business partner, who sent him an email with an FMLA form that was required to be completed by a certified doctor. However, the next morning, plaintiff was terminated. The Head of School stated that she "needed someone who was going to be available to be at work."

The court denied defendant's motion for summary judgment on both of plaintiffs' FMLA claims. First, the court held that there were disputes of fact regarding whether plaintiff met his notice requirements or was prevented from doing so, and that a reasonable jury could find that defendant interfered with plaintiff's ability to find out about his rights or to give notice given that plaintiff expressly asked for information about the FMLA process three separate times. Further, when human resources responded and provided the FMLA form to be filled out, plaintiff was

terminated the next day without enough time to get the form completed and certified. Thus, questions remained about whether defendant fired plaintiff based on his questions about the FMLA and before he had a chance to comply with the regulatory notice requirements.

The court further held that a reasonably jury could find that plaintiff complied with the regulatory notice requirements based on his three emails expressly citing the FMLA even though they failed to state the basis for his leave request. Notably, verbal notice is sufficient under the regulations, and plaintiff testified that he had discussed his children's care needs with the Head of School around the same time and that the Human Resources Director spoke to the Head of School about "what's happening with" plaintiff and sent him the doctor certification form, suggesting defendant knew more about his FMLA request and its potential to qualify for leave.

The court also denied defendant's motion for summary judgment on plaintiff's retaliation claim, noting the outstanding factual disputes regarding whether defendant knew plaintiff was exercising, or at least inquiring about exercising, his FMLA rights as well as respect to defendant's true motivation in terminating plaintiff given the timing of the instruction to terminate him. Further, defendant never disciplined plaintiff for his other non-protected absences, and defendant's comments about "needing someone at work" supported a finding that the FMLA emails and any potential FMLA leave were the true motive in his termination.

***Paris v. MacAllister Machinery Co., Inc.*, 2025 WL 2265448 (E.D. Mich., Aug. 7, 2025)**

Plaintiff, a service technician, had performance difficulties. He claimed he had an anxiety attack and requested leave for his medical condition. He was provided paperwork but never completed the forms. His employment was terminated a few weeks later. In addition to other claims, plaintiff claimed FMLA interference and retaliation.

Regarding the FMLA interference claim, the court determined that plaintiff failed to provide evidence that he suffered an incapacity rising to the level of a serious medical condition. He provided no evidence regarding the duration of his incapacity or any required ongoing treatment. The Court also determined that plaintiff failed to provide notice of his intent to take leave. Even though he informed his employer of a severe anxiety attack, he failed to provide a response or complete any FMLA forms.

The court found plaintiff also failed to establish FMLA retaliation because he failed to establish he was engaged in protected FMLA activity. Plaintiff failed to provide any notice that he intended to take FMLA leave for his anxiety, and his simple request for an FMLA form does not rise to the required level of protected activity. Given this finding, the court did not even reach the question of whether the employer's reasons for termination were pretextual. Appeal is pending at the Sixth Circuit.

***Roeder v. Kautz Vineyards, Inc.*, 2025 WL 1569101 (E.D. Cal. Jun. 3, 2025)**

Plaintiff sued her former employer for interfering with her Emergency Family and Medical Leave Expansion Act (EFMLEA) rights which were incorporated into the FMLA through the Families First Coronavirus Response Act (FFCRA). Plaintiff alleged that she was

fired because she could not return to work in May 2020 because she had to stay home with her children who were attending school over Zoom. Defendant moved for summary judgment, arguing that plaintiff failed to provide adequate notice that she was taking leave and failed to submit written documentation of her request for leave.

The district court denied summary judgment, stating that there was a material dispute as to what notice the employee was required to give and if defendant gave her a sufficient amount of time to provide notice, where she gave sufficient notice of her intent to take a leave within three days of being given her schedule to return to work, but did not turn in the written paperwork.

Summarized elsewhere

***Cain v. Jackson Public School District*, 2025 WL 2701696 (S.D. Miss. Sept. 22, 2025)**

***Lohmeier v. Gottlieb Memorial Hosp., et al.*, 147 F.4th 817 (7th Cir. 2025)**

A. Timing of the Notice and Leave

***Doe v. Wal-Mart Stores E., LP*, 2025 WL 2803826 (E.D. Pa. Oct. 1, 2025)**

Plaintiff began work for defendant on May 1, 2022. On April 23, 2023, plaintiff was sexually assaulted prior to her work shift. As plaintiff began processing the assault, she requested to leave only an hour after starting her shift, telling her supervisor she was an experiencing an emergency; her request was denied. Later in the same shift, plaintiff explained to her supervisor that she had been assaulted, and her supervisor agreed she could leave, stating he would take care of it so she would not be penalized for leaving early. Plaintiff had the next two days off and still felt unready to return to work on her next scheduled shift. Plaintiff contacted the company's third party leave administrator who granted plaintiff's request for three days off and told plaintiff her leave would be categorized as "medical leave." Upon returning to work, plaintiff worked one day without incident. The following day, plaintiff discovered she had been penalized for calling out on one of the days she believed to have been covered by the medical leave. At a meeting with human resources to discuss the issue, plaintiff's employment was terminated, and she was told she would need to speak with the third party leave administrator regarding coverage for her medical leave. The leave administrator told her she would have needed to request four days of leave instead of three for the leave to be approved. Plaintiff then attempted to file an ethics complaint with defendant's corporate office and never received a response despite repeated attempts.

Defendant moved to dismiss plaintiff's FMLA retaliation claim, arguing there were no factual allegations pleaded that plaintiff's termination was because of current and/or prospective FMLA eligibility. Defendant claimed plaintiff was not eligible for FMLA leave at the time she took her leave, as she had not yet been employed with defendant for twelve months. The court found plaintiff did provide adequate notice as under the FMLA, notice can be given by non-eligible employees for leave that will commence once they become eligible. Further, to invoke rights under the FMLA, employees are not required to expressly assert rights under the FMLA or even mention FMLA – they need only provide the employer with enough information to show that they may need FMLA leave. Because defendant was aware of the sexual assault, they were

on notice that plaintiff could make a valid request for future FMLA leave for the same reason. Further, the timing of plaintiff's termination nine days after she requested leave and only after she raised the issue of being penalized for her time off, was unduly suggestive and created an inference that she was fired to prevent her from taking future FMLA leave. The court found it was reasonable to expect that discovery would produce evidence showing defendant was motivated to fire plaintiff to prevent her from taking future FMLA leave and denied defendant's motion to dismiss.

Summarized elsewhere

***Puris v. TikTok, Inc.*, 2025 WL 343905 (S.D.N.Y. Jan. 30, 2025)**

***Williams v. Westchester Med. Ctr. Health Network*, 2025 WL 903757 (S.D.N.Y. Mar. 25, 2025)**

1. Foreseeable Leave

    a. Need for Leave Foreseeable for 30 or More Days

    b. Need for Leave Foreseeable for Less Than 30 Days

Summarized elsewhere

***Robbins v. Candy Digital Inc.*, 2024 WL 5056429 (S.D.N.Y. Dec. 9, 2024)**

***Roeder v. Kautz Vineyards, Inc.*, 2025 WL 1569101 (E.D. Cal. Jun. 3, 2025)**

2. Unforeseeable Leave

***Bynum v. Bandza*, 2025 WL 2308078 (C.D. Ill. Aug. 11, 2025)**

After a five day trial, the jury returned a verdict in favor of plaintiff on his claims for FMLA interference and awarded damages for lost wages and benefits. The district court denied defendant's motion for judgment notwithstanding the verdict. First, defendant argued that no reasonable jury could have found for plaintiff because he failed to establish that he provided sufficient notice of his intent to take leave because he did not notify defendant of unusual circumstances that would have prevented him from complying with defendant's call-in procedure. However, the jury was properly instructed that they must find by a preponderance of the evidence that defendant was given appropriate notice of leave under the circumstances, and the jury heard evidence that he heard his son have an asthma attack as he was leaving for work, he was never asked for the reason he called off, he called off 25 minutes before his shift started, and stated "FMLA" to security. Drawing all reasonable inferences in favor of the non-moving party, such facts are sufficient for the jury to credibly believe and reasonably conclude that there were unusual circumstances and that notice was properly given.

Second, defendant argued that plaintiff failed to establish, and that no reasonable jury could conclude, that plaintiff's employer denied him FMLA benefits to which he was entitled because plaintiff was terminated not for exercising FMLA rights but instead for violating the

call-in rule. The Court noted that it previously held at summary judgment that this is a distinction without a difference, as it is a violation of the FMLA to require adherence to an employer's internal rules and procedures even in the midst of a medical emergency, and there were unusual circumstances which prevented plaintiff from complying with the notice procedures and entitled him to FMLA leave. The court applied the law of the case doctrine, reaffirming its decisions at summary judgment and on defendant's motion for a directed verdict, and noting that there were no compelling reasons to depart from its earlier decisions particularly given the evidence presented at trial.

***Jackson v. United States Postal Service*, 149 F.4th 656 (6th Cir. 2025)**

Plaintiff, a mail clerk who was afflicted with sickle cell anemia, sued his former employer, the United States Postal Service, in the Eastern District of Michigan for FMLA interference, FMLA retaliation and for failure to accommodate his disability under the Rehabilitation Act. The district court granted defendant's summary judgment motion with respect to both FMLA claims.

Plaintiff was placed on a Last Chance Agreement after absences from work that were either excused under the FMLA or were unexcused. Plaintiff still missed work numerous times for no valid reason, and his employment was terminated for that stated reason. On his worst days, sickle cell anemia caused plaintiff to suffer partial paralysis. Plaintiff's condition caused him to take both foreseeable and unforeseeable leave.

After thorough analysis, the Sixth Circuit held that the number of days of intermittent leave each month was not limited or capped by the estimate made by the health care provider in the FMLA certification. This holding abrogated a district court's prior holding in *Taylor-Haywood* v. *Henry Ford Health System*, 2023 WL 2267152 (E.D. Mich. Feb. 28, 2023) (number of foreseeable absences in medical certification created a cap that precluded additional absences for unforeseeable leave). This holding relates to the employee's duty to provide notice of the need for leave. Summary judgment on the interference claim was thus reversed and remanded.

Concerning the retaliation claim, the Sixth Circuit found that its analysis of the interference claim also applied to the retaliation claim, holding that the employer could not rely on the honest belief rule to escape liability because some of the facts of whether he gave sufficient notice of his need for leave appeared to be in dispute. Summary judgment on this claim was also reversed and the case was remanded.

Summarized elsewhere

***Wellman v. Amica Mut. Ins. Co.*, 2025 WL 2324932 (D.N.H. Aug. 12, 2025)**

3. Military Family Leave

B. Manner of Providing Notice

***Lishego v. Tri Star Motors, Inc.*, 2025 WL 755532 (W.D. Pa. Mar. 10, 2025)**

Plaintiff brought suit alleging interference and retaliation under the FMLA. When plaintiff was diagnosed with colon cancer, plaintiff's doctor provided a medical script taking plaintiff off work for a few days. When presented with the script, plaintiff's supervisor berated plaintiff and denied plaintiff the day off. Plaintiff then escalated the request to the vice-president and was granted a few days off. Upon returning, plaintiff was terminated due to performance issues.

The district court denied defendant's motion to dismiss. The supervisor's beratement of plaintiff and refusal to give plaintiff the day off were sufficient to plead interference. The court also held plaintiff had sufficiently pled retaliation. Plaintiff's cancer diagnosis established entitlement to take FMLA leave, providing the doctor's note was plausibly an invocation of FMLA leave, and the "unusually suggestive temporal proximity" between when plaintiff sought leave and plaintiff's termination demonstrated retaliation.

***Puris v. TikTok, Inc.*, 2025 WL 343905 (S.D.N.Y. Jan. 30, 2025)**

Plaintiff, a former senior marketing executive at TikTok, brought suit seeking damages for interference with the exercise of FMLA rights, among other claims. Although plaintiff did not request FMLA leave, plaintiff alleged that defendant warned that taking leave would impact plaintiff's compensation. Plaintiff argued this statement discouraged plaintiff from requesting FMLA leave. Defendant moved to dismiss plaintiff's FMLA claim, arguing that plaintiff's undisputed failure to request FMLA leave precluded plaintiff from stating an interference claim under the FMLA.

The District Court for the Southern District of New York rejected defendant's argument. Relying on recent clarifications to Second Circuit case law, the court held that interference or restraint alone, which includes discouragement, is sufficient to establish an FMLA interference violation. Further, the court noted that Second Circuit case law requiring plaintiff to give notice of intent to take leave applies particularly to cases where the employer has denied an eligible request for FMLA leave. Because a reasonable jury could find defendant's alleged statement discouraged the exercise of plaintiff's FMLA rights, the court denied defendant's motion to dismiss.

Defendants also moved to compel arbitration over any surviving claims and to stay the case. The court denied defendant's motion. Defendant appealed the district court's decision not to compel arbitration, and this appeal is still pending.

***Rolison v. Edgewood Co., Inc.*, 2025 WL 388815 (E.D. Pa. Feb. 3, 2025)**

Plaintiff brought interference and retaliation claims under the FMLA against his former employer after he was injured at work. Plaintiff notified defendant of his injury and initiated a workers' compensation claim. Plaintiff did not specifically request FMLA leave nor did defendant notify him of his FMLA rights. While plaintiff was out of work, he was terminated for unexcused absences. Defendant moved for summary judgment.

In denying defendant's motion, the district court noted that Third Circuit law recognizes the termination of an employee for a valid request of FMLA leave constitutes both interference and retaliation. The court also discussed the overlapping elements between the two claims, including the requirement that plaintiff show they actually took, or attempted to take, FMLA leave. The court concluded that there was a genuine dispute as to whether plaintiff had provided adequate information to his employer to put them on notice that FMLA leave might be appropriate.

Summarized elsewhere

***dela Cruz v. DeJoy*, 2025 WL 66043 (9th Cir. Jan. 10, 2025)**

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

***Warner v. Health Carousel, LLC*, 2025 WL 1207750 (S.D. Ohio Apr. 25, 2025)**

C. Content of Notice

Summarized elsewhere

***Futch v. Freedom Preparatory Academy, Inc.*, 2025 WL 1669358 (W.D. Tenn. Jun. 12, 2025)**

***Holley v. BBS/Mendoza, LLC*, 2025 WL 1095303 (S.D. Ohio Apr. 14, 2025)**

Lucas v. Allegiance Specialty Hosp. of Greenville, 2025 WL 2111089 (N.D. Miss. Jul. 28, 2025)

***Mendez v. Logan General Hosp.*, 2025 WL 2798507 (S.D.W.V. Sept. 26, 2025)**

***Rolison v. Edgewood Co., Inc.*, 2025 WL 388815 (E.D. Pa. Feb. 3, 2025)**

D. Change of Circumstances

E. Consequences of Employee Failure to Comply with Notice of Need for Leave Requirements

Summarized elsewhere

***Bynum v. Bandza*, 2025 WL 2308078 (C.D. Ill. Aug. 11, 2025)**

***Hyde v. NSM Insurance Group*, 2025 WL 785857 (D.N.D. Ohio Mar. 12, 2025)**

IV. Employer Response to Employee Notice

Summarized elsewhere

***Puris v. TikTok, Inc.*, 2025 WL 343905 (S.D.N.Y. Jan. 30, 2025)**

A. Notice of Eligibility for FMLA Leave

***Beckford v. Elevance Health, Inc.*, 2025 WL 950400 (E.D. Va. Mar. 28, 2025)**

An insurance underwriter for a health insurer brought suit against her employer for race discrimination and retaliation under federal and state law, as well as FMLA interference. Plaintiff was later selected for termination as part of a reduction in force.

The court granted defendant's amended motion for summary judgment as to plaintiff's claim of FMLA interference. Plaintiff alleged that the employer provided inconsistent information about her FMLA eligibility and improperly denied her leave. However, the court found no genuine dispute that plaintiff had not worked the requisite 1,250 hours in the twelve months preceding her leave request. Plaintiff failed to present admissible evidence to rebut the employer's documentation of her hours worked. Even if she had been eligible, the court concluded that plaintiff did not suffer any prejudice from the denial, as she was ultimately granted ADA leave, was not disciplined for unapproved absences, and conceded she experienced no financial harm. Emotional distress alone was insufficient to establish prejudice. Accordingly, the FMLA interference claim failed as a matter of law.

Holland v. Texas Christian University, 2025 WL 2588997 (5th Cir. Sept. 8, 2025)

Plaintiff took FMLA leave. Upon her return, the University asserted that performance issues had been discovered that warranted her termination. The University terminated her. Plaintiff brought claims under the FMLA for retaliation and interference.

The district court granted the employer's motion for summary judgment. The circuit affirmed. The basis for the dismissal plaintiff's ineligibility for leave. Both courts found there were no facts to support an argument that the employer should be estopped from raising the defense of non-eligibility because the University made no representation that plaintiff was eligible for FMLA leave.

***Warner v. Health Carousel, LLC*, 2025 WL 1207750 (S.D. Ohio Apr. 25, 2025)**

Plaintiff, a travel nurse recruiter, filed suit against defendant, a healthcare staffing agency, and brought claims of FMLA interference and retaliation, among other claims. After voicing concerns over defendant's handling of patients' personal identifying information, plaintiff alleged being left out of work meetings and a trip attended by all of plaintiff's co-workers. A few months later, plaintiff alleged defendant's vice president of recruiting told plaintiff to begin seeking new employment. While continuing to work for defendant, the health of plaintiff's spouse worsened. Plaintiff requested time off to care for the spouse but did inform defendant of a specific intent to take FMLA leave. Defendant denied this request and told plaintiff to resign within the next month. Plaintiff initially refused but later resigned after being told that plaintiff's earned commissions would not otherwise be paid.

Defendant moved to dismiss, arguing that defendant did not deny FMLA leave, defendant did not receive notice of plaintiff's intent to take FMLA leave, and defendant was not notified of the spouse's FMLA-qualifying health condition. The court denied defendant's motion to dismiss. The key issue was whether plaintiff provided defendant with reasonably adequate information under the circumstances of plaintiff's intent to take FMLA leave. The court held that plaintiff's

claim that time was needed to care for a sick spouse plausibly put defendant on notice of plaintiff's intent to take FMLA leave. The court also rejected defendant's argument that a voluntary resignation, even when pled as a constructive discharge, cannot constitute an adverse employment action. Relying on Sixth Circuit case law, the court noted that constructive discharge may be alleged as an adverse employment action.

Summarized elsewhere

***Cain v. Jackson Public School District*, 2025 WL 2701696 (S.D. Miss. Sept. 22, 2025).**

B. Notice of Rights and Responsibilities

Summarized elsewhere

***Garrison v. Dumas Public School District*, 2025 WL 1947774 (E.D. Ark. Jul. 15, 2025)**

C. Designation of Leave as FMLA Leave

***McGlinchey v. CIOX Health, LLC*, 2025 WL 1447394 (S.D. Miss. May 20, 2025)**

Plaintiff filed suit against defendant alleging violations of the ADA and the FMLA. Defendants filed a motion to dismiss plaintiff's claims. Plaintiff alleged that defendant interfered with her rights under the FMLA by failing to give her notice of her rights. Plaintiff asserted that once she disclosed her struggles with anxiety and depression that required hospitalization, defendant was obligated to notify her of her FMLA rights. Plaintiff further alleged that defendant's failure to do so constituted interference with her FMLA rights.

The district court denied defendants' motion to dismiss. The court noted that when an employer "acquires knowledge that an employee's leave may be for an FMLA qualifying reason, the employer must notify the employee of the employee's eligibility to take FMLA leave within five business days… failure to give the required notice may constitute interference." The court found that because plaintiff alleged that she had informed defendant of her anxiety, depression, and hospitalization, she had sufficiently pleaded that defendant was aware her 2023 absences may have qualified for FMLA leave. Therefore, the court concluded plaintiff had adequately stated a claim for FMLA interference.

Summarized elsewhere

***Wellman v. Amica Mut. Ins. Co.*, 2025 WL 2324932 (D.N.H. Aug. 12, 2025)**

D. Consequences of Employer Failure to Comply with Individualized Notice Requirements

Summarized elsewhere

***Beckford v. Elevance Health, Inc.*, 2025 WL 950400 (E.D. Va. Mar. 28, 2025)**

***Warner v. Health Carousel, LLC*, 2025 WL 1207750 (S.D. Ohio Apr. 25, 2025)**

1. Eligibility Notice

2. Rights and Responsibilities Notice

3. Designation Notice

V. Medical Certification and Other Verification

Summarized elsewhere

***Barra v. Edward D. Jones & Co., L.P.*, 2025 WL 1114183 (S.D.N.Y. Apr. 15, 2025)**

***Divkovic v. Hershey Co.*, 2025 WL 887770 (M.D. Pa. Mar. 21, 2025)**

***Mook v. City of Martinsville, Va.*, 2025 WL 1589282 (W.D. Va. Jun. 5, 2025)**

A. Initial Certification

***Murphy v. Roundy's Inc.*, 2025 WL 1273405 (E.D. Wis. Apr. 2, 2025)**

Plaintiff, a commercial driver, was terminated and brought ADA and FMLA interference and retaliation claims against defendant grocery distributor. Plaintiff developed mental-health conditions and received medical treatment and medication. Plaintiff informed her supervisor that her medical conditions were interfering with work and that she needed a change to her driving schedule. The supervisor explained that human resources needed to be involved. Eventually, plaintiff followed up with human resources, who directed plaintiff to its third-party benefits administrator ("TPA"). Plaintiff filed for FMLA leave and received instructions for healthcare provider documentation and a 15-day deadline to submit information. Three days before the deadline, plaintiff asked her health provider to complete the FMLA leave form and fax it to the TPA by the deadline. The deadline passed and defendant terminated plaintiff as a no-show. Shortly after plaintiff's termination, the health provider faxed the FMLA form to the TPA, who processed the form retroactively and mailed out instructions to plaintiff. Once the instructions were received, plaintiff contacted defendant for employment reinstatement, which defendant declined based on TPA processing error.

In granting defendant's motion for summary judgment, the district court noted the TPA's 15-day deadline is set by regulation and was not disputed by plaintiff. Further, plaintiff's claim for "equitable tolling" under §825.305(b) for 'diligent, good faith efforts' was not supported by the record and posed a risk of undermining the regulatory deadline. In its comments, the court noted the record was void of any submitted declaration or other testimony indicating plaintiff's mental-health issues played a role in the failure to meet the deadline and plaintiff appeared to have made no contact with either the TPA or defendant for an extension of time. To apply "equitable tolling" the court remarked the application would make the concept of a 'deadline' meaningless and without consequence. Finally, the court found that the FMLA retaliation claim lacked proof of discriminatory intent towards plaintiff. The court noted that plaintiff presented no authority imposing an obligation on an employer to apply an "unrequested, automatic extension of time." Therefore, defendant was not obligated to reinstate plaintiff's employment. Appeal is pending at the Seventh Circuit.

Summarized elsewhere

***Lishego v. Tri Star Motors, Inc.*, 2025 WL 755532 (W.D. Pa. Mar. 10, 2025)**

***Naranjo v. United Airlines, Inc.*, 2025 WL 2778504 (D.N.J. Sept. 30, 2025)**

B. Content of Medical Certification

***Brown v. BNSF Railway Company*, 2025 WL 1756380 (N.D. Tex. Jun. 25, 2025)**

Plaintiff, a long-tenured locomotive engineer, sued his employer for interference and retaliation under the FMLA after he was terminated following a period of approved intermittent leave. The employer operated a 24/7 on-call scheduling board and had earlier issued plaintiff a last-chance leniency waiver for attendance issues. After the employer approved intermittent leave based on his physician's certification—explicitly limited to 3–4 absences per month, 1–2 days per absence, "without weekend use"—plaintiff repeatedly used FMLA leave on weekends and ignored a written warning inviting updated certification if his condition required different parameters. The U.S. District Court for the Northern District of Texas granted summary judgment to defendant.

On the FMLA interference claim, the court held there was no denial of benefits where the employer conditioned approval in line with the medical certification and plaintiff failed to comply with those conditions. The court emphasized that employers may require adherence to customary leave procedures and may act on misuse of leave, particularly where the employee is invited to recertify and declines. Because the record showed undisputed misuse (weekend absences beyond the approved scope) and no "unusual circumstances," plaintiff could not show deprivation of any entitlement. The court also noted that the employer permissibly relied on the scope of the healthcare provider's certification and its written warning, and it was not required to accept leave outside the certified parameters absent an updated certification or evidence triggering recertification under the regulations.

On the FMLA retaliation claim, the court found no causal connection between protected leave and termination. The termination followed months after the latest improper weekend leave and was supported by a legitimate, non-retaliatory reason—failure to follow the approved parameters and prior attendance discipline—under *McDonnell Douglas*. The court stressed the absence of temporal proximity, comparator evidence, or inconsistencies suggesting pretext, and highlighted that the last-chance agreement and investigative record pre-dated the challenged leave usage. The court entered summary judgment for the employer on all FMLA claims.

***Sheehan v. Shippensburg Univ.*, 2025 WL 1870922 (M.D. Pa. Jul. 7, 2025)**

Plaintiff worked for defendant remotely during Covid-19. When employees were instructed to return to the office, she asked for an accommodation based on medical conditions. While engaged in the ADA interactive process, plaintiff asked about using "FMLA sick leave" as an option and was directed to complete an FMLA request form and a certification of serious health condition. In the certification, the physician said that plaintiff could perform her job functions but that plaintiff had stated due to her medical conditions she did not feel comfortable working in the current setting during COVID and was requesting to work from home. Defendant

denied the FMLA request because the certification did not support plaintiff having a serious health condition. Defendant instructed plaintiff to return to work. A couple of days later, the physician sent an "updated" certification, now recommending that plaintiff be allowed to work from home. The updated form contained no signature; only initials around changing the "no" to "yes" for whether plaintiff could perform her job functions. When plaintiff failed to return to work, she was discharged. She sued, alleging her FMLA request was the cause of her discharge.

The district court granted summary judgment for defendant, finding no evidence that plaintiff's termination was causally linked to her request for FMLA leave. The timing between the request and termination, around one month, was not "unusually suggestive." Nor was there evidence of a pattern of antagonism or any other discriminatory purpose in the termination. In fact, some of the manager's frustrations with plaintiff occurred before plaintiff requested FMLA leave. Appeal is pending at the Third Circuit.

***Smith v. City of Warren, 2025* WL 679058 (W.D. Ark., Mar. 3, 2025)**

Plaintiff submitted a note a note and medical paperwork to defendant's city clerk. Days later, defendant asked plaintiff about the purpose of the note and paperwork, and he responded he wanted to take FMLA leave. Defendant then provided plaintiff with an FMLA certification form for his medical provider to complete and return. Plaintiff submitted the first certificate and Smith returned it to defendant, who verbally informed him that there was insufficient information and he must have his medical provider complete another one. Plaintiff submitted the second certification form and he was again verbally informed that the certificate did not have sufficient information to permit FMLA leave. Defendant provided plaintiff with a third certification form, which plaintiff did not return. Plaintiff then submitted his resignation. Plaintiff sued defendant for interference with his FMLA rights.

The district court granted summary judgment granted for defendant on plaintiff's FMLA retaliation claim, holding that plaintiff's FMLA request failed to specify a condition. The court found that there was no clear indication of what distinct serious health condition plaintiff allegedly suffered from at the relevant time and that the medical certifications provided no insight into the condition for which he was seeking treatment; they do not detail any symptoms of the condition, how the condition limited plaintiff's ability to perform his work, or why the condition would endure for the described period.

The court also noted that plaintiff presented no evidence of damages incurred because of any interference with FMLA rights; the alleged damages in his complaint do not delineate which damages are attributable to the FMLA claim, but he broadly asserts that he has suffered "negative effects to his mental and physical health, loss of work opportunity, stress, emotional anguish, and other harms." The mental and emotional damages alleged are not recoverable for an FMLA claim and plaintiff did not provide any evidence of the value of any monetary loss from the alleged FMLA interference, such as his lost wages or the value of any employment benefits lost as a result. The inability of plaintiff to demonstrate any damages resulting from the alleged interference with his FMLA rights similarly results in his interference claim failing.

***Spengler v. Coop. Educ. Serv. Agency 7, 2025* WL 2207025, (E.D. Wis. Aug. 4, 2025)**

Plaintiff sought FMLA leave and submitted a medical certification completed by her APNP. Defendant doubted the validity of the medical certification, so it sought a second opinion, and because that conflicted with the first, sought a third opinion. Because the third opinion was binding, defendant accepted it and officially approved her leave (which had been provisionally approved while it was obtaining the second and third opinions.

Plaintiff sued, alleging her employer interfered with her FMLA rights by requiring her to return to Wisconsin from Florida for her first independent medical exam (IME) and requiring a second IME seven weeks after her need for FMLA leave had ended. She also alleged defendant had no basis to seek a second or third opinion, arguing the initial medical certification was sufficient.

The court granted summary judgment granted in favor of defendant, holding defendant had an "honest suspicion" to seek a second and third opinion based on the facts that plaintiff would not be seeking medical treatment until the day after her leave ended; the certification sought leave for the exact time period when plaintiff had been working remotely in Florida the two years prior; and the certification stated that plaintiff could not "communicate effectively with clients and CESA 7 employees" or perform "all duties" because of her condition, yet the employer believed that plaintiff had been communicating effectively with clients and employees and performing all of her job duties since the onset date of the alleged condition. The court also found plaintiff was not prejudiced by having to travel for the examinations, particularly because she did not request an alternate date, provider, or location for the examinations. Appeal is pending at the Seventh Circuit.

Summarized elsewhere

***Degraffreed v. City of Memphis*, 2025 WL 1840729 (W.D. Tn. Jul. 3, 2025)**

C. Second and Third Opinions

***Brown v. Chicago Transit Auth.*, 2025 WL 964540 (N.D. Ill. Mar. 31, 2025)**

Plaintiff, a bus operator, applied for intermittent FMLA leave for back pain. Defendant uses a third-party administrator to manage its FMLA application process. After plaintiff submitted a medical certification, he was required to seek a second opinion, which found that he was not medically qualified for FMLA leave. Plaintiff did not obtain a third opinion, and the administrator therefore relied on the second opinion and denied his FMLA request. Between the time he requested FMLA and the denial, plaintiff failed to follow defendant's process requiring employees to notify both the third party administrator and their work location of FMLA usage 24 times. Plaintiff could not explain this failure, and he was discharged for falsifying leave. Plaintiff sued his employer for FMLA violations, among other things.

The court granted summary judgment to defendant on Plaintiff's FMLA interference claim, finding that there was no evidence to support the contention that Plaintiff would have qualified for FMLA leave had he not been wrongly limited by the flawed second opinion and by the separate requirement to obtain a third opinion. The court found that the second medical opinion had a sound basis and Plaintiff was not limited in his efforts to obtain a favorable third

medical opinion. The court also granted summary judgment on Plaintiff's FMLA retaliation claim, finding that his termination was not because he engaged in a protected activity under the FMLA, as he was terminated for falsifying leave. Appeal is pending at the Seventh Circuit.

Summarized elsewhere

***Spengler v. Coop. Educ. Serv. Agency 7*, 2025 WL 2207025, (E.D. Wis. Aug. 4, 2025)**

D. Recertification

Summarized elsewhere

***Nixon v. Anchor Glass Container Corp.*, 2024 WL 5046716 (M.D. Ga. Dec. 6, 2024)**

E. Fitness-for-Duty Certification

***Mundt v. Aden*, 2024 WL 5182644 (N.D. Fla. Nov. 25, 2024)**

Plaintiff brought suit against defendant county officials to enforce state and federal claims, including an FMLA interference claim alleging that defendant improperly placed him on FMLA leave early on, thereby depriving him of future FMLA leave. Plaintiff was an investigative patrol deputy, which required him to complete and pass a physical abilities test ("PAT") at least once each calendar year. Sworn employees unable to complete a PAT could apply for non-sworn positions for which they were qualified. If no non-sworn positions were available, the employee was terminated. While in this position, plaintiff began to experience severe back pain. He sought medical care and his doctor prepared a report indicating plaintiff could not perform essential functions of his job position. Based on this report, defendant placed plaintiff on FMLA leave ("initial FMLA leave"). Plaintiff returned to work but continued to experience pain. After plaintiff's doctor recommended surgery, plaintiff took an additional FMLA leave for surgery and to convalesce. At intervals during the recovery period, plaintiff's medical team made multiple medical record annotations indicating plaintiff would need to perform a PAT, appeared "not ready," and medical supervision release dates were only "tentative dates." Eventually defendant communicated to plaintiff that his FMLA time had run out, and plaintiff needed to apply for non-sworn positions or face termination. Plaintiff viewed non-sworn positions as a demotion and declined applying for these roles, at which time defendant terminated plaintiff.

The district court granted summary judgment for defendant, finding ample medical evidence that contradicted plaintiff's assertion that defendant improperly required him to take the initial FMLA leave. The court specifically pointed to plaintiff's failure to establish that there was "no serious health condition" to which the initial FMLA leave applied. To the contrary, the court relied on plaintiff's own medical record, which was replete with annotations of a serious condition impacting all aspects of plaintiff's essential duties, thereby indicating a "serious health condition" - for which defendant properly placed plaintiff on FMLA.

Summarized elsewhere

***Murphy v. Forest River, Inc.*, 2025 WL 2779342 (N.D. Ind. Sept. 29, 2025)**

F. Certification for Continuation of Serious Health Condition

G. Certification Related to Military Family Leave

1. Certification of Qualifying Exigency

2. Certification for Military Caregiver Leave

H. Other Verifications and Notices

1. Documentation of Family Relationships

2. Notice of Employee's Intent to Return to Work

I. Consequences of Failure to Comply With or Utilize the Certification or Fitness-for-Duty Procedures

***Brown v. Chicago Transit Auth.*, 2025 WL 964540 (N.D. Ill. Mar. 31, 2025)**

Plaintiff, a bus operator, applied for intermittent FMLA leave for back pain. Defendant uses a third-party administrator to manage its FMLA application process. After plaintiff submitted a medical certification, he was required to seek a second opinion, which found that he was not medically qualified for FMLA leave. Plaintiff did not obtain a third opinion, and the administrator therefore relied on the second opinion and denied his FMLA request. Between the time he requested FMLA and the denial, plaintiff failed to follow defendant's process requiring employees to notify both the third party administrator and their work location of FMLA usage 24 times. Plaintiff could not explain this failure, and he was discharged for falsifying leave. Plaintiff sued his employer for FMLA violations, among other things.

The court granted summary judgment to defendant on Plaintiff's FMLA interference claim, finding that there was no evidence to support the contention that Plaintiff would have qualified for FMLA leave had he not been wrongly limited by the flawed second opinion and by the separate requirement to obtain a third opinion. The court found that the second medical opinion had a sound basis and Plaintiff was not limited in his efforts to obtain a favorable third medical opinion. The court also granted summary judgment on Plaintiff's FMLA retaliation claim, finding that his termination was not because he engaged in a protected activity under the FMLA, as he was terminated for falsifying leave.

1. Employee

***Gabbard v. Butler Cnty, Ohio*, 2025 WL 874731 (S.D. Ohio Mar. 20, 2025)**

Plaintiff, a civil clerk, sued in the United States District Court for the Southern District of Ohio against the county where she was employed and multiple judges in their official capacity. Plaintiff brought claims for pregnancy discrimination under federal and state law, interference under the FMLA, and retaliation under federal and state law. Plaintiff sought monetary damages and reinstatement to her former position. Plaintiff moved for partial summary judgment, and

defendants moved for summary judgment on all claims. The court granted summary judgment for plaintiff on only her pregnancy discrimination claim, and for defendants on all other claims.

Plaintiff notified her supervisor of her pregnancy in October 2021. The supervisor then provided plaintiff with FMLA documentation, including a letter stating the medical certification form needed to be completed and returned within thirty days, or leave would be denied. Plaintiff provided the medical certification to her physician one day prior to the thirty day deadline. The physician did not return the medical certification to plaintiff's employer until two months later. Because plaintiff did not return the medical certification by the deadline, the employer notified plaintiff that she was no longer employed.

The only dispute was whether defendants denied plaintiff benefits to which she was entitled under the FMLA. Plaintiff asserted several arguments: that she took leave which did not require a medical certification, that defendant's leave policy was more stringent than the FMLA and therefore unlawful, and that defendant's leave policy was unlawful because it did not have a notice provision. Defendants raised a sovereign immunity defense.

First, the court determined that plaintiff's leave was at least in part for a serious health condition requiring a medical certification. Plaintiff argued she took leave to bond with her newborn. But because plaintiff received inpatient treatment and continuing treatments for her pregnancy, the court considered her pregnancy a serious health condition, so a medical certification could be required. Additionally, because plaintiff's leave was for a serious health condition, her claims for monetary damages were barred by Eleventh Amendment sovereign immunity.

Second, the court held that defendants' denial of plaintiff's leave was proper because plaintiff failed to provide a medical certification required by the employer's policies without an unusual circumstance to justify the failure. The court did not consider plaintiff's situation – providing the certification to her physician who then failed to provide it to the employer by the deadline – to be an unusual circumstance under the FMLA.

The court quickly disposed of plaintiff's remaining arguments. The paperwork plaintiff received from her supervisor was considered sufficient notice under the FMLA. Because plaintiff did not timely provide her medical certification, defendants lacked information to require notification to plaintiff of her denied leave. Finally, the court found no authority that an employee can be on FMLA simultaneously for multiple reasons.

2. Employer

VI. Recordkeeping Requirements

A. Basic Recordkeeping Requirements

B. What Records Must Be Kept

C. Department of Labor Review of FMLA Records

CHAPTER 7.

PAY AND BENEFITS DURING LEAVE

I. Overview

II. Pay During Leave

A. Generally

Summarized elsewhere

***Vallejo v. DeJoy*, 2025 WL 473632 (D. Conn. Feb. 12, 2025)**

B. When Substitution of Paid Leave is Permitted

1. Generally

2. Types of Leave

a. Paid Vacation and Personal Leave

b. Paid Sick or Medical Leave

***Williams v. UAB Hosp. Mgmt., LLC*, 2025 WL 2810010 (N.D. Ala. Sept. 30, 2025)**

Plaintiff worked as a patient care technician for a university hospital. She was granted intermittent leave under the FMLA in connection with her anxiety, depression, and ADHD. At a meeting, defendant informed plaintiff that she had exhausted all paid time such that her intermittent leave moving forward would be unpaid. Defendant then offered her the option to resign rather than take unpaid leave but also stated that they were not forcing her to resign. During the meeting, plaintiff raised her voice and acted in manners that defendant found aggressive and so they terminated her employment several weeks later.

Plaintiff sued defendant for FMLA interface and retaliation, among other claims. The district court granted defendant's motion for summary judgment on all counts. The court found that plaintiff's primary complaint under her FMLA interference claim stemmed from defendant's policy concerning the application of paid time off to intermittent leave. The court held that such complaints about an employer's policy are not actionable because there is no right to paid leave under the FMLA. As for plaintiff's retaliation claim, the court held that defendant had carried its burden to show it terminated plaintiff for her behavior, which was a legitimate, non-discriminatory reason. In so ruling, the district court rejected plaintiff's attempts to argue pretext because defendant had produced a recording of the meeting in question, which corroborated defendant's witnesses' testimony. In addition to plaintiff's evidentiary shortcomings, the court noted that disagreements over whether plaintiff's behavior was truly unprofessional were irrelevant because defendant could terminate her for any reason, including a bad or erroneous reason, so long as it was not a discriminatory reason.

c. Paid Family Leave

d. Workers' Compensation or Temporary Disability Benefits

Summarized elsewhere

***Eaton v. Montana Silversmiths*, 2025 WL 371454 (D. Mont. Feb. 3, 2025)**

e. Compensatory Time

C. Limits on the Employer's Right to Require Substitution of Paid Leave

III. Maintenance of Benefits During Leave

A. Maintenance of Group Health Benefits

1. Generally

2. What is a Group Health Plan

3. What Benefits Must Be Provided

4. Payment of Premiums

a. Methods of Payment

i. During Paid Leave

ii. During Unpaid Leave

b. Consequences of Failure to Pay

5. When the Obligation to Maintain Benefits Ceases

a. Layoff or Termination of Employment

b. Employee Notice of Intent Not to Return to Work

c. Employee's Failure to Pay Premiums

d. "Key Employees"

e. Other Circumstances

6. Rules Applicable to Multi-Employer Health Plans

B. Employer's Right to Recover Costs of Maintaining Group Health Benefits

1. When an Employer May Do So

2. How an Employer May Do So

C. Continuation of Non-Health Benefits During Leave

1. Generally

2. Non-Health Benefits Continued at Employer's Expense

3. Non-Health Benefits Continued at Employee's Expense

4. Specific Non-Health Benefits

a. Pension and Other Retirement Plans

b. Lodging

c. Holiday Pay

d. Paid Leave

CHAPTER 8.

RESTORATION RIGHTS

I. Overview

II. Restoration to the Same or an Equivalent Position

***Burton v. Univ. of Houston*, 2025 WL 92960 (S.D. Tex. Jan. 14, 2025)**

In the District Court for the Southern District of Texas, defendant moved to dismiss plaintiff's complaint, which included claims of retaliation and interference under the FMLA. Plaintiff worked for defendant as an executive assistant in the Office of General Counsel. In August 2022, plaintiff informed defendant she was pregnant and was due in April 2023. Plaintiff was granted FMLA leave beginning April 4, 2023, until June 26, 2023. Upon returning to work on June 26, 2023, she was terminated by defendant, who stated that the employment was "not working out." Plaintiff alleged that she was coerced into signing a letter of resignation and that defendant refused to reinstate her.

Defendant moved to dismiss on the grounds that plaintiff failed to establish she was an eligible employee, and that she was denied benefits under the FMLA. The court noted that to be an eligible employee under the FMLA plaintiff must have worked for defendant for twelve months and completed 1,250 hours of work. The court found that plaintiff failed to establish she had worked the requisite hours and therefore failed to plead her FMLA interference claim. Accordingly, the court granted defendants motion to dismiss the interference claim.

Defendant also argued that plaintiff failed to establish that she was denied benefits under the FMLA since she was restored to the same position she held prior to her leave, even though she was terminated on the day she returned. However, the court noted that several courts have

held that returning an employee to a position only long enough to be fired does not amount to a meaningful reinstatement. Because defendant failed to provide contrary authority, the court denied the motion to dismiss the claim for denial of FMLA benefits.

Finally, defendant argued that plaintiff failed to establish a retaliation claim under the FMLA because she resigned and therefore did not suffer an adverse employment action. However, since plaintiff pled she was coerced into resigning, the court denied defendant's motion to dismiss, emphasizing that holding otherwise would create an avenue for every employer to circumvent their FMLA obligations by pressuring employees to resign instead of terminating them.

Summarized elsewhere

***Bunnell v. William Beaumont Hosp.*, 2025 WL 2549224 (6th Cir. Sept. 4, 2025)**

***Gargas v. Estes Express Lines, Inc.*, 2025 WL 860034 (N.D. Ohio Mar. 19, 2025)**

A. General

Summarized elsewhere

***El-Bash v. Southern Ohio Med. Ctr. Med. Care Foundation, Inc.*, 2024 WL 4767049 (S.D. Ohio Nov. 13, 2024)**

***Monbelly v. Allied Universal Prot. Servs.*, 2025 WL 3048925 (W.D. La. Oct. 31, 2025)**

B. Components of an Equivalent Position

Summarized elsewhere

***Faulkner v. Dental Assisting Academy of Louisville, LLC*, 2025 WL 2616913 (W.D. Ky. Sept. 10, 2025)**

1. Equivalent Pay

2. Equivalent Benefits

3. Equivalent Terms and Conditions of Employment

III. Circumstances Affecting Restoration Rights

Summarized elsewhere

***Bomar v. Bd. of Educ. of Harford Cnty.*, 2024 WL 5170130 (D. Md. Dec. 19, 2024)**

A. Events Unrelated to Leave

1. Burden of Proof

2. Layoff

Summarized elsewhere

***Houdeshell v. Council on Rural Serv. Programs, Inc.*, 2024 WL 4817439 (S.D. Ohio Nov. 18, 2024)**

3. Discharge Due to Performance Issues

***Pizza v. Toyota of Morristown*, 2024 WL 4948826 (D.N.J. Dec. 3, 2024)**

Plaintiff, a car salesperson terminated after taking a leave of absence, filed suit against his employer, claiming FMLA retaliation and sought punitive damages. On or about July 15, 2021, plaintiff requested and was granted a leave of absence due to a spouse's medical condition. This leave included FMLA leave, which covered the timeframe from September 3 through November 26, 2021. Plaintiff then requested and was granted additional leave from November 27, 2021, through January 10, 2022. Thereafter, plaintiff requested to return to work at the dealership. Defendant informed plaintiff the COVID-19 outbreak had rendered work conditions unsafe. Ten days later, defendant sent plaintiff a letter stating a salesperson was no longer needed and terminated plaintiff's employment. Defendant subsequently stated the reason for termination was plaintiff's "poor performance in gross sales profit as compared to other salespeople."

After removing the action from state court to the United States District Court for the District of New Jersey, defendant moved for summary judgment, arguing there was no causal link between plaintiff's FMLA leave and termination because plaintiff had taken leave beyond that granted by the FMLA. The court agreed that taking leave beyond that covered by the FMLA is not protected activity and held no causal link existed between plaintiff's FMLA leave and subsequent termination. The court further noted that, even if plaintiff had set forth a prima facie case for an FMLA retaliation claim, plaintiff had not rebutted defendant's non-discriminatory basis for terminating plaintiff's e due to poor sales performance.

Summarized elsewhere

***Jiggetts v. Cipullo*, 774 F. Supp. 3d 168 (D.D.C. 2025)**

4. Other

***Faulkner v. Dental Assisting Academy of Louisville, LLC*, 2025 WL 2616913 (W.D. Ky. Sept. 10, 2025)**

Plaintiff, the Director of Career Services at a college campus, requested and was granted several weeks of FMLA leave for anxiety and panic disorder. Upon her return to work, defendant informed her it had changed her job title, modified her job duties, and consolidated her position with others in her department, but she would maintain the same level, pay, and schedule as before. Defendants later outsourced key parts of plaintiff's job and terminated plaintiff and another employee.

Plaintiff claimed FMLA interference based on defendant's failure to return her to an equivalent position upon her return from FMLA leave. The court held plaintiff had met her burden of showing that she was not returned to an equivalent position, based on evidence that her

role was substantially different upon her return from FMLA leave. Defendant met its burden of presenting a nondiscriminatory reason for its action through evidence that it had restructured the department during her absence following another employee's departure. The court granted summary judgment for defendant, finding plaintiff was unable to show defendant's reason was pretextual.

Plaintiff also claimed FMLA interference based on her termination. This claim also failed, as she could not establish a causal link between her use of FMLA-protected leave and her termination. The court pointed to the fact that plaintiff was terminated nearly a year after defendant had twice granted plaintiff's FMLA requests. Plaintiff's FMLA retaliation claim was dismissed for the same reasons.

B. No-Fault Attendance Policies

***Schobert v. CSX Transp., Inc.*, 2024 WL 4817437 (S.D. Ohio Nov. 18, 2024)**

Plaintiffs and putative class members sued defendant relating to its policies relating to attendance. Under the policies, employees were "guaranteed" pay for remaining on call and received attendance points for unexcused absences. Additionally, defendant reduced attendance points for each calendar month with no unexcused absences. Plaintiffs argued the policies discouraged employees from using FMLA leave because such leave could ruin perfect attendance for the month.

The court denied defendant's motion for summary judgment. First, the court held that defendant could require employees to substitute accrued paid leave for FMLA leave. Second, the court held that the attendance policy, which denied reduction in attendance points to employees who used FMLA leave, interfered with employees' FMLA rights since attaching negative consequences to the exercise of a protected right tended to chill the right. Third, the court held that defendant did not treat all forms of leave equally when measuring the 30-day point-reduction clock, treating some non-FMLA leave more favorably. Finally, the court held that since defendant's "Guaranty Pay" was based on the achievement of a specified goal under 29 C.F.R. § 825.215(c), defendant could deny the pay to employees who did not achieve the goal due to FMLA leave, but if defendant deducted more Guaranty Pay from employees on FMLA leave than from employees on other forms of unpaid leave, it would have violated the FMLA.

Summarized elsewhere

***Walker v. Se. Pennsylvania Transportation Auth.*, 2025 WL 1879521 (3d Cir. Jul. 8, 2025)**

C. Employee Actions Related to the Leave

1. Other Employment

2. Other Activities During the Leave

3. Reports by Employee

4. Compliance With Employer Requests for Fitness-for-Duty Certifications

Summarized elsewhere

***Mundt v. Aden*, 2024 WL 5182644 (N.D. Fla. Nov. 25, 2024)**

5. Fraud

D. Timing of Restoration

IV. Inability to Return to Work Within 12 Weeks

***Fanor v. Univ. Hosp.*, 2025 WL 2772616 (D.N.J. Sept. 26, 2025)**

The court dismissed on summary judgment an FMLA interference claim brought by plaintiff hospital employee, finding that plaintiff could not show a compensable harm. Plaintiff admitted that he could not have returned to work following twelve weeks of FMLA leave and that had defendants offered him the opportunity to return to work, he would have been unable to pass the required return to duty physical. The undisputed fact that plaintiff was unable to return to work after the FMLA leave period was fatal to his interference claim because a plaintiff must prove both the existence of an FMLA violation *and* resulting damages. Appeal is pending at the Third Circuit.

***Waite v. Eduro Healthcare, LLC*, 2025 WL 2592550 (D. N.M. Sept. 8, 2025)**

Plaintiff exhausted twelve weeks of FMLA leave for surgery and sought an extension after her provider projected she could not return until months beyond the statutory entitlement period. The employer denied plaintiff additional FMLA leave because her allotment was fully used and ultimately terminated her employment when she did not return to work upon exhausting her FMLA leave. Plaintiff brought suit, alleging FMLA interference and FMLA wrongful termination. The U.S. District Court for the District of New Mexico granted summary judgment for defendant, holding that plaintiff could not establish interference because she received all of the FMLA leave to which she was entitled.

Plaintiff argued she had been involuntarily placed on FMLA leave earlier than she wished, but the court rejected this theory because she could not demonstrate prejudice. Regardless of the date she started the FMLA leave period, she was unable to return to work within twelve weeks. The court further held that a supervisor's suggestion that she work from home to conserve leave was not an adverse employment action and did not discourage her use of leave under the FMLA. Finally, the court held that she was not wrongfully terminated under the FMLA, since the FMLA permits an employer to terminate an employee who cannot return to work after the exhaustion of leave.

Summarized elsewhere

***Glasgow-McCall v. Harris County, et al.*, 2025 WL 2782330 (S.D. Texas Sept. 30, 2025)**

***Lucas v. Henry Ford Health Sys.*, 2025 WL 2777568 (E.D. Mich. Sept. 29, 2025)**

***Lundberg v. Delta Response Team, LLC*, 2025 WL 364452 (W. D. Va. Jan. 31, 2025)**

***Simonton v. Houston Methodist Continuing Care Hosp.*, 2025 WL 174023 (S.D. Tex. Jun. 9, 2025), adopted by 2025 WL 1745129 (S.D. Tex. Jun. 24, 2025)**

***Stapleton v. Prince Carpentry, Inc.*, 2025 WL 2591519 (E.D.N.Y. Sept. 8, 2025)**

***Walls v. Lee Mem'l Health Sys.*, 2025 WL 254826 (M.D. Fla. Jan. 21, 2025)**

***Ward v. Wesley Med. Ctr., LLC*, 2025 WL 1445863 (D. Kan. May 20, 2025)**

V. Special Categories of Employees

A. Employees of Schools

B. Key Employees

1. Qualifications to Be Classified as a Key Employee

2. Standard for Denying Restoration

3. Required Notices to Key Employees

a. Notice of Qualification

b. Notice of Intent to Deny Restoration

c. Employee Opportunity to Request Restoration

CHAPTER 9.

INTERRELATIONSHIP WITH OTHER LAWS, EMPLOYER PRACTICES, AND COLLECTIVE BARGAINING AGREEMENTS

I. Overview

II. Interrelationship with Laws

A. General Principles

B. Federal Laws

1. Americans with Disabilities Act

Summarized elsewhere

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

***Labrice v. City of Philadelphia*, 2025 WL 1888205 (E.D. Pa. Jul. 8, 2025)**

***Latham v. Brett/Robinson Corp.*, 2025 WL 1239908 (S.D. Ala. Apr. 30, 2025)**

***Warner v. Health Carousel, LLC*, 2025 WL 1207750 (S.D. Ohio Apr. 25, 2025)**

a. General Principles

b. Covered Employers and Eligible Employees

c. Qualifying Events

i. Serious Health Conditions and Disabilities

ii. Triggering Events for Leave of Absence Rights

d. Nature of Leave and Restoration Rights

i. Health Benefits

ii. Restoration

iii. Light Duty

e. Medical Inquiries and Records

f. Attendance Projects

2. COBRA

3. Fair Labor Standards Act

4. 42 U.S.C. § 1983

Summarized elsewhere

***Jiggetts v. Cipullo*, 774 F. Supp. 3d 168 (D.D.C. 2025)**

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

5. Title VII of the Civil Rights Act

Summarized elsewhere

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

***Puris v. TikTok, Inc.*, 2025 WL 343905 (S.D.N.Y. Jan. 30, 2025)**

6. Uniformed Services Employment and Reemployment Rights Act

7. IRS Rules on Cafeteria Plans

8. ERISA

9. Government Contract Prevailing Wage Statutes

10. Railway Labor Act

11. NLRA and LMRA

12. Genetic Information Nondiscrimination Act of 2008

13. Social Security Disability Insurance

C. State Laws

***Castelli v. JSN Network, Inc.*, 2025 WL 371832 (N.D. Ill. Feb. 3, 2025)**

Plaintiff, a manager of a donut shop, sued the shop and its owner and operator on behalf of a putative class in the United States District Court for the Northern District of Illinois. Plaintiff asserted four claims: retaliation under Illinois common law, violation of the Illinois Wage Payment and Collection Act, interference under the FMLA, and retaliation under the FMLA. The owner and operator moved to dismiss for failure to state a claim.

The court found that plaintiff could not establish an Illinois state law claim for retaliatory discharge by relying on a violation of the FMLA. Specifically, the FMLA did not implicate the rights and duties essential to a common law claim but instead created its own cause of action. Therefore, the court dismissed plaintiff's common law retaliatory discharge claim.

1. State Leave Laws

***Michaelson v. United States*, 2024 WL 5246520 (D. Mass. Dec. 30, 2024)**

Plaintiff sued his former employer, the United States Department of Veterans Affairs in federal district court, alleging multiple claims including a violation of the Massachusetts Paid Family Medical Leave (PFMLA). Defendants moved to dismiss plaintiff's PFMLA claim for lack of subject matter jurisdiction. Plaintiff worked as a physician for defendant. Plaintiff developed a chronic health condition and notified defendant of his condition in December of 2020. At the end of the month, plaintiff went on medical leave and informed defendant of his intent to return to work in April of 2021. Plaintiff claimed that defendants failed and refused to process his return to work despite him being under an agreement for employment into 2022. Plaintiff asserted that defendant failed to provide him with "job protected medical leave as required by the PFMLA."

The court granted defendants' motion to dismiss plaintiff's PFMLA claim because plaintiff failed to prove subject matter jurisdiction. Defendants claimed that the PFMLA claim should fail because Congress has not explicitly waived immunity for such state suits. Plaintiff has the burden of proving jurisdiction exists, which was not proven here. The court held that the state law claims against defendants are barred by sovereign immunity, and the PFMLA protections do not apply to federal employees unless Congress has authorized it; thus, plaintiff's remedies are federal, not based on state law.

a. General Principles

b. Effect of Different Scope of Coverage

i. Employer Coverage

ii. Employee Eligibility

c. Measuring the Leave Period

d. Medical Certifications

e. Notice Requirements

f. Fitness-for- Duty Certification

g. Enforcement

h. Paid Family Leave Laws

2. Workers' Compensation Laws

a. General Principles

b. Job Restructuring and Light Duty

c. Requesting Medical Information

d. Recovery of Group Health Benefit Costs

3. Fair Employment Practices Laws

Summarized elsewhere

***Warner v. Health Carousel, LLC*, 2025 WL 1207750 (S.D. Ohio Apr. 25, 2025)**

4. Disability Benefit Laws

5. Other State Law Claims

Summarized elsewhere

***Gargas v. Estes Express Lines, Inc.*, 2025 WL 860034 (N.D. Ohio Mar. 19, 2025)**

***Jiggetts v. Cipullo*, 774 F. Supp. 3d 168 (D.D.C. 2025)**

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

***Puris v. TikTok, Inc.*, 2025 WL 343905 (S.D.N.Y. Jan. 30, 2025)**

D. City Ordinances

Summarized elsewhere

***Puris v. TikTok, Inc.*, 2025 WL 343905 (S.D.N.Y. Jan. 30, 2025)**

III. Interrelationship with Employer Practices

A. Providing Greater Benefits Than Required by the FMLA

Summarized elsewhere

***Lucas v. Henry Ford Health Sys.*, 2025 WL 2777568 (E.D. Mich. Sept. 29, 2025)**

B. Employer Policy Choices

***Spokoiny v. Univ. of Washington Med. Ctr.*, 2025 WL 752492 (9th Cir. Mar. 10, 2025)**

Plaintiff appealed from the U.S. District Court of the Western District of Washington's order granting summary judgment for defendant on her claim of FMLA interference. Although plaintiff claims she provided "over 20" instances of FMLA interference, the district court found those record citations did not show the *denial* of FMLA leave. Rather, the record demonstrated each was an instance of defendant *clarifying* its policy regarding FMLA leave. The court found that because employers are permitted to have policies around the implementation of FMLA leave defendant's clarifications were not facial interference with FMLA leave. Thus, summary judgment for defendant was proper and the decision was affirmed.

***Sprosty v. Collins*, 2025 WL 2084217 (N.D. Ill. Jul. 24, 2025)**

Plaintiff was granted and exhausted her FMLA leave, and then took another 450.75 hours of AWOL, resulting in the termination of her employment for excessive absenteeism. She sued her employer, alleging FMLA interference and retaliation by firing her for absences that she claims were approved under the FMLA. Plaintiff seemingly misread how her timecard tracked her FMLA usage, and the court concluded no reasonable juror could believe that the FMLA balance was not increasing as plaintiff used her FMLA leave or that she had not exhausted her available 480 hours of FMLA leave. Moreover, plaintiff did not mention her FMLA leave when calling in on numerous occasions that were counted toward her AWOL, which was required by defendant's policy. Thus, summary judgment was granted in favor of defendant on both claims.

1. Method for Determining the "12-Month Period"

2. Employee Notice of Need for Leave

***Thompson v. Harris Ctr. for Mental Health*, 2025 WL 1424149 (S.D. Tex. May 16, 2025)**

Plaintiff, a service coordinator for defendant, brought suit against defendant alleging discriminatory termination in violation of the ADA and FMLA interference. Defendant moved for summary judgment. The district court found that plaintiff failed to provide proper notice of his intent to take FMLA leave to defendants. Plaintiff had traveled to another country and emailed defendants the day before he was expected to return saying that he would not be able to return to work the next day and subsequently due to illness. He then failed to respond to multiple

communications from defendants asking him for an update on his return to work over the course of the following ten days. The court found that in order for plaintiff to establish FMLA interference, he would need to cite to evidence capable of showing that for each of his non-approved absences following his initial email, unusual circumstances prevented him from complying with defendant's policy requiring him to maintain contact with his supervisors. The court further found that plaintiff's own self-serving statements that he was unable to contact his supervisors due to internet outages or that he attempted to contact defendants one time seven days after his initial email were not sufficient to raise a genuine issue of material fact. The court therefore granted defendant's motion for summary judgment.

Summarized elsewhere

***Clevenger v. A.M. Castle & Co.*, 2025 WL 964941 (N.D. Ill. Mar. 31, 2025)**

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S.D. Fla. Mar. 31, 2025)**

***Sprosty v. Collins*, 2025 WL 2084217 (N.D. Ill. Jul. 24, 2025)**

3. Substitution of Paid Leave

***McKeon V. Robert Reiser & Co.*, 770 F.Supp.3d 351 (D. Mass. 2025)**

Plaintiff suffered from anxiety and agoraphobia and requested FMLA leave from defendant. Plaintiff took intermittent and continuous FMLA in 2022 to provide care for her mother and also for her own serious health condition. While on leave, plaintiff received her full wages and adjustments were made to her available sick and vacation time to supplement her income while on leave. A leave system software error resulted in plaintiff taking more time than permitted, but she was not required to repay the amount. When plaintiff exhausted all forms of leave, defendant informed her that she may face disciplinary action for any further absences. Plaintiff alleges defendant's requirement that she use her sick and vacation time while on FMLA leave constituted interference and retaliation. The district court granted defendant's motion for summary judgment on the FMLA claims.

Plaintiff alleges that defendant violated the FMLA by (1) denying intermittent leave, (2) by notifying her in September 2022 that it was deducting paid leave from her account for the period she was on FMLA leave, and (3) by telling her she would face disciplinary action if she had any further absences from the workplace because her earned leave was exhausted. Plaintiff also alleges that defendant retaliated against her in violation of the FMLA by (1) notifying her in September 2022 that it was deducting paid leave for FMLA leave that had ended in June 2022, and (2) threatening her with disciplinary action. However, the district court found that plaintiff conceded that she was never denied any FMLA leave, and there was nothing unlawful about defendant charging her leave to sick or vacation time. Further, the court found that a leave system software error that impacted all employees did not constitute an adverse action for purposes of retaliation.

***Tumbleson v. Lakota Local School Dist.*, 2025 WL 1797094 (S.D. Ohio Jun. 30, 2025)**

Plaintiff, a teacher for defendants school district and board of education, brought suit against defendants alleging discrimination and FMLA interference when defendants denied her request to use accrued sick leave to attend service dog training, instead granting her unpaid leave. Both parties filed cross-motions for summary judgment that were before the court. The court found that defendants' sick leave policy did not permit accrued sick leave to be used for the purpose of attending training for a service dog, even though the training was indirectly related to plaintiff's disability. In its reasoning, the court examined the definition of "personal illness" under defendants' sick leave policy. The court noted that plaintiff admitted that at the time she requested leave, she was able to adequately perform her job. The court further found that an indirect connection to a disability is not enough to make service dog training itself a "personal illness" that permits use of accrued sick leave. While the underlying syndrome may at times be a "personal illness," the service dog training was not. The court therefore found that since plaintiff's reason for leave did not fall within the terms and conditions of defendants' paid sick leave policy, she could not substitute the accrued paid leave for FMLA leave, even if she did qualify for FMLA leave. Additionally, since defendants had already granted plaintiff unpaid leave, defendant did not engage in FMLA interference, as she would have only received unpaid leave under FMLA anyway. The court therefore granted defendant's motion for summary judgment and denied plaintiff's motion for partial summary judgment. Appeal is pending at the Sixth Circuit.

Summarized elsewhere

***Schobert v. CSX Transp., Inc.*, 2024 WL 4817437 (S.D. Ohio Nov. 18, 2024)**

4. Reporting Requirements

5. Fitness-for-Duty Certification

Summarized elsewhere

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S.D. Fla. Mar. 31, 2025)**

6. Substance Abuse

7. Collecting Employee Share of Group Health Premiums

8. Other Benefits

9. Other Employment During FMLA Leave

10. Restoration to an Equivalent Position for Employees of Schools

IV. Interrelationship with Collective Bargaining Agreements

***Naranjo v. United Airlines, Inc.*, 2025 WL 2778504 (D.N.J. Sept. 30, 2025)**

Plaintiff was a flight attendant for defendant airline who used intermittent FMLA leave for two chronic illnesses and Covid. She was discharged for excessive unexcused absences. She

sued under the FMLA for interference and retaliation for seeking or using FMLA leave. Defendant moved for summary judgment and to dismiss for lack of jurisdiction, contending that plaintiff received all the FMLA leave to which she was entitled and that her claims were preempted with the Railway Labor Act (RLA) because they were intertwined with the terms of her Collective Bargaining Agreement (CBA).

The court denied defendant's motion to dismiss, holding that plaintiff was not challenging the CBA but, rather, defendant's motive in taking actions in violations of rights existing independently of the CBA. The court also denied summary judgment on the FMLA interference claim because there were issues of fact as to whether plaintiff had shown extenuating circumstances which would have required defendant to extend plaintiff's deadline to return a medical certification. The court reached its finding based on detailed evidence accounting for plaintiff's efforts to timely submit the certification and the extenuating circumstances.

The court also denied summary judgment on plaintiff's retaliation claim, finding issues of fact as to pretext and causation based on evidence that when plaintiff asked her supervisors for help, after she was given attendance points because she was too sick to work, her supervisor told plaintiff she couldn't call in anymore, counted plaintiff's chronic condition against her when giving plaintiff attendance points, and relied on the points in firing plaintiff.

A. General Principles

B. Fitness-for-Duty Certification

CHAPTER 10.

INTERFERENCE, DISCRIMINATION, AND RETALIATION CLAIMS

I. Overview

II. Types of Claims

A. Interference With Exercise of Rights

***Barra v. Edward D. Jones & Co., L.P.*, 2025 WL 1114183 (S.D.N.Y. Apr. 15, 2025)**

Plaintiff, a senior office administrator, sued her former employer for retaliation and interference with her FMLA rights, as well as disability discrimination under New York State Human Rights Laws. Plaintiff's daughter became psychiatrically unwell and attempted suicide in late 2022. Plaintiff informed one of defendants of her daughter's condition in November of 2022 and informed human resources that she would be taking FMLA leave beginning on December 7, 2022. Due to difficulties obtaining certification paperwork from her daughter's doctors, plaintiff was unable to provide the FMLA certification paperwork until January 13, 2023. When plaintiff returned from leave on January 3, 2023, she was informed that her employment had been terminated.

Defendants filed a motion to dismiss plaintiff's claims, which was denied. Defendants argued that plaintiff's FMLA retaliation claim should be dismissed due to her failure to provide timely certification. The court found plaintiff made a good faith effort to provide timely certification, and her daughter's doctors were the reason for the delay. Thus, the court found this situation qualified as an "extenuating circumstance" anticipated under the FMLA that does not preclude an individual from the statute's coverage. Due to its finding that plaintiff satisfied the FMLA certification requirement, the court declined to dismiss her retaliation claim. Defendants additionally argued that her FMLA interference claim should be dismissed because plaintiff failed to show that defendants denied her any benefits under the FMLA. However, the court found that plaintiff did satisfy the requirement of providing sufficient notice of intent to take FMLA leave by explicitly stating to her employer she may need more time off in the future depending on her daughter's needs. As such, the court denied defendants' motion to dismiss her interference claim.

***Bunnell v. William Beaumont Hosp.*, 2025 WL 2549224 (6th Cir. Sept. 4, 2025)**

An ultrasonographer sued her hospital employer alleging, among other claims, FMLA interference and retaliation tied to her layoff during pandemic workforce reductions and post-partum leave. After the district court in Michigan granted summary judgment, the Sixth Circuit affirmed in part and reversed in part. The record showed that after childbirth, plaintiff received FMLA leave; upon her release to return to work, a manager at a sister facility emailed her supervisor asking if plaintiff was "still available" for a full-time opening. The supervisor replied that plaintiff "went from layoff to Medical Leave," omitting that she had been cleared to return that same day, and did not inform plaintiff of the opening.

The Sixth Circuit affirmed judgment for the employer on the FMLA retaliation claim, finding no evidence plaintiff opposed an unlawful practice or suffered retaliation for doing so. But the court held a triable issue existed on the FMLA interference claim: an employer may not use the FMLA leave as a negative factor in employment decisions, and a reasonable juror could find the supervisor's failure to inform either the sister facility or plaintiff of her immediate availability—and the evidence that another manager was unaware of any decision to withhold that information—reflected an adverse action taken at least in part because of protected leave. The court emphasized that "interference" includes using leave as a negative factor when considering placement in available roles and that an employee need not prove retaliatory animus to prevail on this theory.

Accordingly, the court reversed summary judgment on the FMLA interference claim and remanded, while affirming on the FMLA retaliation claim and other non-FMLA claims. On remand, the factfinder was directed to determine whether the employer's omission materially interfered with the right to reinstatement to the same or an equivalent position at the end of the FMLA leave. The remand preserves for trial whether the omission and non-notification denied plaintiff a benefit protected by the Act.

***Chitwood v. Ascension Health*, 2025 WL 1554866 (S.D. Ind. May 1, 2025)**

The district court granted summary judgment on plaintiff's interference claim where she failed to return to work on her scheduled date following FMLA leave and didn't make her request for additional leave until after she was no longer an employee, making her ineligible for FMLA leave. For the same reason, her FMLA retaliation claim failed. Appeal is pending at the Seventh Circuit.

***Conner v. Stark & Stark, P.C.*, 2025 WL 1694052 (D.N.J., Jun. 17, 2025)**

Plaintiff was an Accounts Payable/Accounts Receivable Manager in defendant's Finance Department starting January 2018. In April 2022, plaintiff had rotator cuff surgery. Plaintiff did not consider taking medical leave and returned to work almost immediately after her surgery. In March 2023, plaintiff informed defendant she would need a second shoulder surgery and would need some, hopefully limited, time off to recover. On April 24, 2023, plaintiff had her second surgery. Afterwards, plaintiff worked from home in a shoulder sling and was not permitted to drive. Plaintiff testified that her supervisor stated it would have been nice if her health issue was fixed the first time. On May 23, 2023, before plaintiff received approval from her doctor to return to office, plaintiff's supervisor emailed her about when she would return to the office and stated she should have been on FMLA leave starting the day after the surgery. Plaintiff responded to say she has been working, just not in the office at least three days per week. Plaintiff admitted she never explicitly requested FMLA leave. Defendant mentioned plaintiff's work from home in her performance reviews. Defendant alleged plaintiff was responsible for a $1.9 million wire transfer that was missed because she was not in the office. Plaintiff denied culpability. Defendant terminated plaintiff within days of the missed wire transfer.

When analyzing FMLA interference claims, the Court found that plaintiff admitted she never wanted FMLA leave (because she thought she could work, albeit remotely). That defendant failed to provide individualized notice to plaintiff of her FMLA rights was not enough to establish interference. The Court rejected plaintiff's constructive notice argument. The critical factor was plaintiff never intended to take FMLA leave. The Court, therefore, granted defendant's motion for summary judgment on plaintiff's interference claims.

The Court applied the *McDonnel Douglas* framework to plaintiff's retaliation claims, concluding that plaintiff failed to make out a *prima facie* claim. The Court reasoned that plaintiff could not credibly claim retaliation when she never requested nor took FMLA leave, noting that courts have found employees are allowed to explicitly refuse to take leave they would otherwise be entitled to under the FMLA.

***Divkovic v. Hershey Co.*, 2025 WL 887770 (M.D. Pa. Mar. 21, 2025)**

Plaintiff and his wife both worked for Hershey. Plaintiff requested FMLA leave related to his wife's IVF treatments, providing a certification from his doctor indicating that he would use the leave to drive his wife to doctor's appointments for IVF treatments. However, Plaintiff occasionally took leave while his wife was at work, leading his employer to suspect FMLA abuse. Plaintiff thought his leave covered more than just driving his wife to appointments and claimed he prepared IVF injections at home to take to his wife at work. The employer investigated this suspected FMLA abuse and disciplined Plaintiff before ultimately terminating

his employment. Plaintiff brought suit, alleging, among other things, FMLA interference and retaliation.

The court applied the *McDonnell Douglas* framework to Plaintiff's FMLA retaliation claim. They found that he successfully established a prima facie case of FMLA retaliation because his request for FMLA leave appeared causally related to his termination. The court rejected the idea that a history of favorable FMLA treatment proves the termination was not in retaliation for an FMLA request. In the second step of the *McDonnell Douglas* analysis, the court found that an honest belief that an employee used his leave for a reason other than its intended purpose is a legitimate, non-discriminatory reason for an adverse employment action. In the final step of the *McDonnell Douglas* analysis, the court found that the employer's legitimate nondiscriminatory reason withstood scrutiny because the employer had no duty to ask Plaintiff to clarify his medical certification and had no duty to engage in a more detailed investigation. Because Plaintiff had failed to show discriminatory reasons or retaliatory animus behind the termination, the employer was granted judgment on the FMLA retaliation claim regarding the IVF treatments.

Plaintiff also brought an FMLA claim for retaliation regarding his own disabilities, which included gout flare-ups, anxiety, and depression. Plaintiff's own FMLA leave certification expired four to five months before he obtained certification for the leave regarding the IVF treatments. Plaintiff alleged that Hershey terminated him shortly after he expressed an intention to recertify his FMLA leave. However, the court found that the evidence did not show Plaintiff invoked a right to FMLA-qualifying leave. Additionally, the court held that a subjective belief of retaliation is not enough to establish a prima facie case of retaliation.

Plaintiff further alleged that his employer interfered with his FMLA leave by discouraging him from using FMLA and terminating him after he sought to assist his and his wife's medical conditions. His employer argued that the claim was redundant to the retaliation claim. While the court rejected this proposition, they still granted judgment in favor of the employer. Hershey had granted all of Plaintiff's requests for FMLA leave, and Plaintiff was discharged only after Hershey had an honest belief that he was misusing his leave.

***Dubey v. Concentric Healthcare Sols. LLC*, 2025 WL 2480927 (D. Ariz. Aug. 28, 2025)**

Plaintiff worked for defendant, a healthcare company, from August 2016 until December 2, 2021. After her termination, the employee brought several claims against her former employer and a vice president of operations claiming interference in violation of the FMLA.

The United States District Court for the District of Arizona heard the case addressed several motions in limine filed by defendants. Defendants sought to preclude the introduction of deposition testimony of defendant company's co-founder related to two prior lawsuits against the company and a prior settlement. The court granted the motion in part, excluding references to spoliation of evidence and settlement with another party, but allowed testimony as to a jury verdict rendered in prior claimant's favor and the company president's disregard for the health, safety, and concern of employees thereafter. The court found it relevant to demonstrating a lack of good faith and willful disregard for legal obligations.

In ruling on these motions, the court considered evidence related to and possibly supportive of the employee's FMLA claim and evaluated its relevance and admissibility to determine whether it demonstrated a willful disregard for legal obligations by the employer. The court also considered the employee's experience of receiving corrective action upon her return from FMLA leave and her later termination. The court considered the relevance of past lawsuits against the company and the testimony of one of the founders, which the employee argued demonstrated a pattern of disregard for legal obligations, relevant to her FMLA claim. The court based its decision on the admissibility of this evidence on its potential to show an absence of mistake and a lack of good faith by the employers.

***Hankins v. Lowe's Home Ctrs., LLC*, 2025 WL 2987012 (N.D. Ill. Oct. 23, 2025)**

Plaintiff employee sued defendant employer for violations of the FMLA and other anti-discrimination statutes. Plaintiff was hired by defendant in 2016 and was promoted in 2019. Plaintiff regularly worked 30 hours per week and received full-time benefits despite defendant's policy requiring a minimum of 32 hours per week to be considered full-time. Throughout his employment, plaintiff served as the primary caretaker for his disabled son. Plaintiff requested and was granted FMLA leave in 2018 and 2020 to care for his son. In 2020, plaintiff notified defendant of his availability to work only on certain days of the week. If plaintiff was scheduled on a day he was not available, he was permitted to use FMLA leave in lieu of working the shift. Plaintiff stated defendant told him his availability could not be honored and suggested plaintiff move to part-time. Plaintiff claimed interference and retaliation under the FMLA for defendant's regular scheduling of plaintiff on days when plaintiff stated he was not available.

The court granted defendant's motion for summary judgment for both claims, finding plaintiff was not denied FMLA benefits to which he was entitled to and did not suffer an adverse action because of his FMLA leave. The court stated FMLA leave does not entitle employees to any specific schedule; scheduling plaintiff on days he was not available did not constitute an adverse action. The court cited the relatively few times plaintiff had been scheduled on days he was unavailable since notifying defendant of the change, and defendant's granting plaintiff full-time status despite his working less than other full-time employees. Though plaintiff speculated that defendant's scheduling him for days he was unavailable was meant to prevent plaintiff from taking future FMLA leave, as he would eventually be ineligible due to lack of hours worked, the court found speculation alone was not enough to overcome summary judgment.

Plaintiff also claimed defendant violated the FMLA's "usual and customary" notice requirements and plaintiff's privacy rights by sharing plaintiff's FMLA information with his assistant manager. The court again sided with defendant, stating the FMLA requires employees to comply with their employer's policy, which was followed in this case, and that only employees in plaintiff's supervisory chain of command had access to plaintiff's FMLA records, which is compliant with the FMLA.

***Henderson v. Geico*, 2024 WL 4694011 (E.D.N.Y. Nov. 6, 2024)**

Plaintiff worked for defendant as a Personal Injury Protector Examiner. Defendant had a policy that employees were not allowed to work outside of their scheduled hours without prior

approval. Throughout 2020 and 2021, plaintiff received numerous warnings regarding working outside of her scheduled hours. On March 8, 2021, plaintiff was notified that defendant was reviewing her supervisor's recommendation that she be terminated. Shortly thereafter, plaintiff took approved FMLA leave from March 9 to March 19, and was scheduled to return to work on March 23. On March 25, plaintiff's supervisors inquired whether she would be returning to work. Plaintiff was terminated on March 26 when she failed to return to work. Plaintiff brought claims of FMLA interference and retaliation.

On the FMLA interference claim, plaintiff argued that even though she was not prevented from taking FMLA leave, that her rights were interfered with because of the inquiries about when she was returning to work. The court granted summary judgment for defendant, finding that the inquiries occurred after plaintiff was supposed to return, and after her FMLA leave was over. Therefore, there was no evidence to support interference with her FMLA leave. On the retaliation claim, in granting summary judgment for defendant, the court found that defendant asserted several legitimate reasons for terminating plaintiff, including repeated warnings about working outside her scheduled hours, and engaging in unprofessional conduct. Because plaintiff presented no evidence that the reasons for her termination were pretextual, her retaliation claim failed.

***Holmes v. KE Gutridge, LLC*, 2025 WL 908407 (S.D. Ohio Mar. 26, 2025)**

Plaintiff worked for a fire response and suppression company. He installed fire suppression systems into various buildings. During the relevant time period, plaintiff called out of work 24 times. He asserted that 20 of those absences were FMLA related. Eventually, the company fired plaintiff because he had had too many absences. The employer accused plaintiff of dishonesty when reporting the reason for his absences.

Among the claims evaluated in dueling motions for summary judgment were FMLA interference and retaliation. The court found that disputes of fact prevented summary judgment on plaintiff's FMLA interference claim. Plaintiff was entitled to necessary leave for treatment of an on-the-job back injury and to assist his mother with her recovery from a heart attack. A jury must determine whether plaintiff's leave to assist his daughter with her illness was supported by the FMLA. On the FMLA retaliation claim, the court determined that a jury must decide whether the employer had fired plaintiff for taking FMLA-protected leave.

***Labrice v. City of Philadelphia*, 2025 WL 1888205 (E.D. Pa. Jul. 8, 2025)**

Plaintiff police officer brought suit against city employer alleging, *inter alia*¸ FMLA interference and retaliation. Following trial, a jury found defendant liable for violating ADA and state discrimination statute, but not FMLA. In a post-trial motion, defendant argued that it was entitled to a new trial because the jury's finding that defendant had violated ADA was incompatible with its finding that the city had not engaged in FMLA retaliation and interference. The court rejected this reasoning, explaining that the FMLA interference and retaliation inquiry focuses on animus towards the exercise of FMLA rights, and not on animus towards any injury or disability underlying the exercise of those rights. The jury could thus find differently on those two counts. Appeal is pending at the Third Circuit.

***Sutton v. Forrest County*, 2025 WL 3048237 (S.D. Miss. Oct. 31, 2025)**

Plaintiff, after allegations of racial discrimination against the employer, plaintiff alleges that she was told she was not being considered for a promotion because of her prior allegations. Following that discussion, plaintiff texted the city clerk that the discussion left her with a "psychological work injury" for which she was requesting FMLA leave. Later that morning, the city clerk sent plaintiff a termination letter, stating that he "cannot continue to be intimidated or manipulated by…claims of physical or emotional illness…" Nowhere in the termination letter was it mentioned that plaintiff's employment was terminated for poor performance on the job, nor was there any written documentation in her employment file of issues related to job performance throughout the course of her employment.

Plaintiff brought suit, alleging, among other things, interference with her right to FMLA leave. Defendant moved for summary judgment, arguing that plaintiff's employment was validly terminated for poor performance and the "insubordinate accusation" that the city clerk had caused her psychological injury. The district court rejected defendant's arguments, finding that a reasonable jury could find that defendant's termination immediately following plaintiff's request for leave under the FMLA was unlawful interference. Accordingly, the district court denied defendant's motion for summary judgment.

***Valeri v. Twp. of Toms River*, 2024 WL 4903558 (D.N.J. Nov. 27, 2024)**

Plaintiff asserted FMLA interference and retaliation claims against defendant employer based on comments made by her supervisor about her use of intermittent FMLA leave and based on the employer's decision to temporarily transfer her to a different department after plaintiff made a formal complaint about her supervisor. Plaintiff alleged that her supervisor interfered with her rights under the FMLA by remarking to other employees that plaintiff was frequently absent, and by asking plaintiff if she "got lost" in front of other employees when she returned from FMLA leave. Plaintiff argued that these remarks discouraged her from taking FMLA leave and thus constituted FMLA interference. The district court granted summary judgment for defendants on plaintiff's FMLA interference claim, reasoning that plaintiff had presented no evidence that she had been denied leave under the FMLA. Rather, plaintiff had received all of the FMLA leave she sought during the relevant timeframe.

Plaintiff also alleged that the employer transferred her to a different department in retaliation for her having taken FMLA leave. However, the district court also granted summary judgment for defendants on plaintiff's FMLA retaliation claim, reasoning that plaintiff failed to show either a causal connection between her exercise of her FMLA rights and any adverse employment action. More than five months passed between approval of plaintiff's FMLA leave and her temporary transfer. Moreover, the court concluded the evidence supported that the temporary transfer plaintiff complained of was the result of a legitimate, non-retaliatory reason: to aid in the investigation of the internal complaint plaintiff filed against her supervisor.

***Walls v. Lee Mem'l Health Sys.*, 2025 WL 254826 (M.D. Fla. Jan. 21, 2025)**

Plaintiff, a pediatric emergency physician, alleged a claim for FMLA retaliation after she was unable to return to work following more than six months of medical absence due to long-term effects of COVID-19. Although she sought additional leave and a transfer, the employer determined she could not perform the essential functions of her position with or without accommodation and had no identifiable return-to-work date. The U.S. District Court for the Middle District of Florida held that plaintiff failed to establish retaliation under the FMLA because she had exhausted her twelve weeks of FMLA leave and the FMLA does not require employers to grant indefinite leave. The district court further noted that absent additional evidence, the three month time period between the protected activity at issue and the adverse employment action was not sufficiently close in proximity to create a genuine issue of material fact on causation. The district court also found that a manager's statement that plaintiff had "taken too much time off" was a factually-based, attendance-related comment which was insufficient to establish a causal link between plaintiff's FMLA leave and her termination.

The district court emphasized that reinstatement rights apply only when an employee can return to work at the end of protected leave under the FMLA. Because Plaintiff could not resume her duties and could not identify a return date, her separation did not violate the FMLA. The employer granted all of the FMLA benefits to which plaintiff was entitled. Therefore, the district court entered summary judgment on her FMLA retaliation claim. Appeal is pending at the Eleventh Circuit.

***Webster v. MHM Health Pros., LLC*, 2025 WL 896291 (S.D. Ind. Mar. 24, 2025)**

Plaintiff sued her former employer in the U.S. District Court for the Southern District of Indiana alleging FMLA interference and retaliation, as well as disability discrimination. Plaintiff worked as a Health Services Administrator (HSA) and was responsible for the overall operation of the clinical program at their designated facility. An HSA was generally required to work forty hours a week but often worked overtime. Plaintiff had been placed on a performance improvement plan (PIP) by her supervisor in September 2021. Before completion of her PIP, plaintiff was diagnosed with Factor V Clotting and took medical leave under the FMLA. Plaintiff's leave under the FMLA was approved from October 28, 2021, until January 17, 2022. On January 7, 2022, plaintiff submitted a return-to-work certificate in which her doctor limited her work to eight hours per day, and forty hours per week. On January 18, 2022, defendant's human resource manager informed plaintiff that her work restrictions could not be approved because the company could not guarantee those hours. Plaintiff returned to work with the same pay and benefits as she received prior to her leave. Plaintiff's supervisor expressed the possibility of demoting her to assistant HSA, but that change never materialized. Plaintiff received satisfactory performance reviews for the next few months but was issued a second PIP on October 4, 2022, due to failing to satisfy the requirements of the HSA position. Her employment was terminated on November 4, 2022.

The court granted defendant's motion for summary judgment on plaintiff's FMLA interference and retaliation claims. Plaintiff claimed that defendant interfered with her rights under the FMLA because her employer was covered by the FMLA; she was entitled to leave under the FMLA; she provided notice of her intent to take leave; and her employer denied her FMLA benefits to which she was entitled. The FMLA requires employers to restore the

employee on leave to an equivalent position, which defendant asserted occurred, as she was returned to the exact same position she held prior to leave. Additionally, plaintiff claimed that defendant violated her restoration rights under the FMLA by not allowing her to return to work on her own schedule, and by failing to accommodate her restrictions, which the court found to be repeats of plaintiff's ADA claim. The court granted defendant's motion for summary judgment on the FMLA interference claim because plaintiff failed to articulate a legal theory under which she was entitled to relief under the FMLA. On her retaliation claim, defendant agreed that plaintiff's taking the FMLA leave was protected activity and her termination was an adverse employment action, but claimed plaintiff had provided no evidence linking the adverse employment action to the protected activity. The court agreed and granted defendant's motion for summary judgment on plaintiff's retaliation claim.

Summarized elsewhere

***Anderson v. Huffman*, 2025 WL 948494 (M.D. Fla. Mar. 28, 2025)**

***Boykins v. SEPTA*, 2025 WL 2777577 (E.D. Pa. Sept. 26, 2025)**

***Brown v. BNSF Railway Company*, 2025 WL 1756380 (N.D. Tex. Jun. 25, 2025)**

***Futch v. Freedom Preparatory Academy, Inc.*, 2025 WL 1669358 (W.D. Tenn. Jun. 12, 2025)**

***Givens v. Massachusetts Institute of Technology*, 2025 WL 2645380 (D. Mass. Sept. 15, 2025)**

***Harris v. Nat'l Grid USA Serv. Co., Inc.*, 2025 WL 915690 (D. Mass. Mar. 26, 2025)**

***Hogan v. Fidelity Brokerage Services*, LLC, 2025 WL 845785 (D.N.J. Mar. 17, 2025)**

***Lomboy v. Wells Fargo Bank, Nat'l Ass'n*, 2025 WL 2899214 (N.D. Cal. Oct. 10, 2025)**

***McGlinchey v. CIOX Health, LLC*, 2025 WL 1447394 (S.D. Miss. May 20, 2025)**

***McKeon V. Robert Reiser & Co.*, 770 F.Supp.3d 351 (D. Mass. 2025)**

***Schobert v. CSX Transp., Inc.*, 2024 WL 4817437 (S.D. Ohio Nov. 18, 2024)**

1. Prima Facie Case

***Arnott v. Holzer Health Sys.*, 2024 WL 5187000 (S.D. Ohio Dec. 20, 2024)**

A nurse practitioner brought suit against a health system and its subsidiary medical clinic as joint employers. Plaintiff had a history of chronic migraine headaches, for which she took both intermittent and continuous FMLA leave between 2016 and 2021. After exhausting her FMLA leave, plaintiff requested six additional months of medical leave. Relying on plaintiff's physician's statement that no other accommodation would allow her to continue working, defendants terminated plaintiff's employment. Plaintiff alleged her termination was a result of FMLA retaliation. Defendants moved for summary judgment.

Defendants argued that plaintiff failed to establish a prima facie case of FMLA retaliation because she did not establish a causal connection between the protected activity and the adverse action. In response, plaintiff pointed to temporal proximity between the FMLA leave and her termination. Under Sixth Circuit precedent, evidence an employer was previously concerned about a problem before the employee engaged in the protected activity undercuts the significance of temporal proximity. Here, defendants terminated plaintiff's employment about a month after her FMLA leave was exhausted, however, defendants expressed concern about plaintiff's attendance long before she exhausted her FMLA leave, undercutting the significance of temporal proximity. Further, plaintiff failed to bring forth evidence that defendants' reasons for termination were pretextual, and subsequently, the court granted defendants' motion.

***Chapman v. Brentlinger Enterprises*, 124 F.4th 382 (6th Cir. 2024)**

Plaintiff brought suit for FMLA interference and retaliation after she was terminated for failing to appear at work after her employer denied her request for FMLA leave on the grounds that FMLA leave is unavailable to care for an adult sibling. The Sixth Circuit affirmed in part and reversed in part the denial of defendant's motion for summary judgment.

On appeal, the Sixth Circuit evaluated whether the FMLA recognizes *in loco parentis* relationships when the dependent is an adult sibling. Despite holding that the plain text of the FMLA neither forbids nor affirmatively allows an employee to take time off for the care of an adult sibling, the Sixth Circuit looked to other sources of common law guidance to determine whether *in loco parentis* relationships are limited to caring for a minor, and determined that prior precedent indicated that a person could assume a parental relationship with an ill adult sibling. The Court remanded to the district court to consider whether plaintiff had an *in loco parentis* relationship with her sister and thus could make out a claim for FMLA interference.

On plaintiff's FMLA retaliation claim, applying the *McDonnell Douglas* criteria, the Sixth Circuit reversed the district court's grant of summary judgment on plaintiff's termination of employment and benefits application claims, but affirmed on plaintiff's sanctions letter claim. The district court held plaintiff failed to prove causation because she was not fired for requesting FMLA leave, but rather for being absent to care for her dying sister. The Sixth Circuit remanded for analysis of the retaliation claim under the *McDonnell Douglas* framework.

***Daniels v. Morningstar, Inc.*, 2025 WL 1001727 (N.D. Ill. Apr. 3, 2025)**

Plaintiff sued his former employer, Morningstar, Inc., alleging FMLA interference. Defendant and plaintiff both moved for summary judgment. To establish a prima facie case of FMLA interference, a plaintiff must demonstrate that he was an eligible employee, that the employer was covered by the FMLA, that he was entitled to FMLA leave, that he provided notice of his intent to take leave, and that the employer denied his FMLA benefits to which she was entitled.

Plaintiff alleged that defendant terminated his employment three days after he initiated his leave under the FMLA, thereby interfering with his FMLA rights. However, the court found this claim to be factually inaccurate. The undisputed record reflected that plaintiff submitted his FMLA leave request on September 13, 2023, while defendant made the decision to terminate his

employment on September 12, 2023. This timeline demonstrates that the termination decision preceded plaintiff's FMLA request and accordingly, the court granted defendant's motion for summary judgment.

***Ferretti v. Truist Financial Corporation*, 2024 WL 5248158 (W.D.N.C. Dec. 30, 2024)**

Plaintiff, a bank consultant, sued her former employer in the United States District Court for the Western District of North Carolina for interference under the FMLA, sex and pregnancy discrimination under Title VII of the Civil Rights Act, and wrongful discharge in violation of public policy. Defendant moved for summary judgment.

Plaintiff worked for defendant for over 10 years. During her employment, plaintiff had three children and took maternity leave after each pregnancy. In 2022, plaintiff informed her supervisor and former supervisor that she suffered a miscarriage. The decision-maker in plaintiff's termination did not recall whether he was informed of the miscarriage. Plaintiff then became pregnant again in early 2023. Plaintiff attended an in-person meeting at the end of January 2023 where she "looked pregnant," and later informed defendant of her pregnancy and need for FMLA leave in early February 2023. Plaintiff was terminated 15 days after notifying defendant. Defendant's human resources department had a process for deciding to terminate employees, where a pool of employees was submitted. However, plaintiff's supervisor admitted he had already determined plaintiff was the one he wanted to terminate prior to complying with the human resources process.

The court found there was a genuine issue of material fact as to whether the decision to terminate plaintiff was made before or after her request for FMLA leave. If a fact finder found defendant made the decision to fire plaintiff after her request, then defendant interfered with her entitlement to FMLA benefits. Therefore, summary judgment was not appropriate and was denied.

***Foreman v. River City Mortgage, LLC*, 2025 WL 2522945 (S.D. Ohio Sept. 2, 2025)**

Plaintiff, a senior loan processor, sued her former employer following her termination for FMLA interference and retaliation. Plaintiff argued that her termination was due to the fact that defendant did not want to continue permitting her to use intermittent FMLA leave to manage her Irritable Bowel Syndrome (IBS). Defendant, on the other hand, claimed that plaintiff was terminated for poor job performance.

The court granted defendant's motion for summary judgment on plaintiffs' FMLA claims. Specifically, the court held that plaintiff was not able to establish a prima facie case of interference because there was no dispute—indeed, plaintiff conceded during her deposition—that defendant never rejected or denied plaintiff's use of FMLA leave. The court also rejected plaintiff's claim that a 9 am reporting requirement in her performance improvement plan (PIP), which was contrary to her schedule authorizing remote work in the mornings in order to manage her IBS, was interference, as there was no evidence that this requirement chilled or discouraged plaintiff's use of FMLA leave. The court further held that there was no evidence that the alleged

interference prejudiced plaintiff in any way, as she did not lose wages, salary, or benefits when the performance improvement plan was imposed.

On plaintiff's retaliation claim, the court held that plaintiff failed to prove that defendants' reason for her termination—poor performance—was pretextual. Although defendant placed plaintiff on a PIP within six months of approving her FMLA leave application and terminated her the day after she took protected leave, temporal proximity alone was not enough to demonstrate pretext. Similarly, the court held that lack of contemporaneous documentation concerning performance deficiencies did not give rise to an interference of pretext; moreover, the record before the court revealed that there was at least some discussion with plaintiff about performance before it imposed the PIP. Finally, the court held plaintiff failed to provide evidence to specifically rebut that her supervisors found her performance inadequate, as the only evidence she provided was her own belief and non-supervisor colleagues' beliefs that her performance was generally satisfactory.

***Hileman v. West Penn Allegheny Health System, Inc.*, 2025 WL 461588 (W.D. Pa. Feb. 11, 2025)**

Plaintiff, a former CT Technologist, was disciplined for allegedly sleeping on the job. According to Plaintiff, she had shut her eyes because they were dry due to a change in her diabetes medication. Plaintiff was eventually terminated. Plaintiff brought suit alleging interference under the FMLA. Defendant then moved for summary judgment.

The Western District of Pennsylvania granted summary judgment for defendant, finding that plaintiff failed to provide adequate notice of her intent to take FMLA qualified leave, because she never mentioned needing leave because of her diabetes or diabetes medication, never mentioned that she had issues performing her job because of her diabetes, and never indicated that she needed time off of work for any reason. Appeal is pending at the Third Circuit.

***Holley v. BBS/Mendoza, LLC*, 2025 WL 1095303 (S.D. Ohio Apr. 14, 2025)**

Plaintiff sued her former employer, BBS/Mendoza, LLC, alleging FMLA interference, among other claims. The jury returned a verdict in favor of defendant on all counts. Plaintiff subsequently renewed her motion for judgment as a matter of law.

The court denied the motion, holding that a reasonable jury could conclude that she was not entitled to FMLA leave. Plaintiff suffered from high blood pressure during her employment. While defendant does not dispute that this qualifies as a serious medical condition under the FMLA, it contested that her symptoms on the day in question were related to that condition. The court noted that her symptoms did not align with those previously associated with her high blood pressure and her testimony was inconsistent with her medical records.

The court also held that a reasonable jury could conclude plaintiff failed to meet her burden of proof regarding her claim that defendant did not provide a general FMLA notice. Under the FMLA, employers are required to post a general notice of employees' rights in a

conspicuous place and distribute the notice to each employee. In this case, defendant presented sufficient evidence that it was posted in the breakroom.

Finally, the court found that a reasonable jury could conclude that plaintiff failed to provide her employers with adequate notice of her FMLA leave. The FMLA requires employees to provide notice "as soon as practicable" and furnish enough information for the employer to reasonably determine whether the leave might qualify for FMLA protection. If the information is insufficient, the employer should inquire further. However, plaintiff did not enter relevant doctor's notes into evidence and did not call relevant managers to the stand. Therefore, the court denied plaintiff's renewed motion for judgment as a matter of law.

***Houdeshell v. Council on Rural Serv. Programs, Inc.*, 2024 WL 4817439 (S.D. Ohio Nov. 18, 2024)**

Plaintiff, a school bus driver, sued Council on Rural Service Programs, Inc., a not-for-profit providing childhood educational and support services, alleging wrongful termination. Plaintiff brought FMLA retaliation and interference claims, among other claims.

On September 12, 2022, defendant received guidance to increase employee compensation from the U.S. Department of Health and Human Services—the primary source of defendant's funding. On October 22, 2022, defendant informed employees that a reduction in force was needed to increase staff compensation. Plaintiff, who had worked for defendant since 2014, was granted FMLA leave on February 13, 2023, but did not take leave at that time. On March 7, 2023, defendant informed plaintiff the driving position would be eliminated at the end of the school year. Defendant offered to retain plaintiff as a teacher, but plaintiff declined. Subsequently, plaintiff was forwarded an email stating applicants interested in transportation positions should look at defendant's career services page. A similar advertisement ran in the newspaper. Defendant claimed the advertisements were finalized before the reduction in force began. Defendant did not hire a replacement driver to service plaintiff's location.

The court granted defendant's motion for summary judgment. Applying the *McDonnell Douglas* framework, the District Court for the Southern District of Ohio noted plaintiff's burden to establish a prima facie case in workforce reduction cases required plaintiff to provide evidence suggesting plaintiff was impermissibly singled out for termination. Defendant only challenged the causal connection element. Relying on Sixth Circuit law, the court held the span of eight days between plaintiff's FMLA request and the elimination of plaintiff's position was sufficient to support causation at the summary judgment stage. Although Sixth Circuit case law also allowed an interference claim to arise from termination, the court held that merely terminating an employee with approved FMLA leave did not constitute interference and that plaintiff had failed to establish a prima facie case for interference. Further, the court followed Sixth Circuit precedent that eliminating an employee under a reduction in force was a legitimate, non-discriminatory reason for termination. The court rejected plaintiff's argument that the advertisements showed that defendant's offered reason was pretextual, noting defendant's undisputed offer to retain plaintiff in a different position was strong evidence against pretext.

***Karnes v. Midland Credit Mgmt.*, 2025 WL 906793 (W.D. Va. Mar. 25, 2025)**

Plaintiff sued her former employer in the District Court for the Western District of Virginia, alleging violations of the FMLA, among other claims. Plaintiff claimed that a delay by defendant's insurance plan administrator in processing her disability claims resulted in her improper termination. The court found that plaintiff failed to prove prejudice. Even if it was true that plaintiff was terminated improperly during her FMLA leave, the court found she was not prejudiced because she had exhausted all of her FMLA leave, yet was still unable to return to work, and therefore was no longer eligible for reinstatement. The court dismissed plaintiff's action without prejudice.

***Wood v. Brown Univ.*, 2025 WL 712975 (D.R.I. Mar. 5, 2025)**

A research service technician brought suit in the District Court for the District of Rhode Island against her employer, alleging it interfered with her FMLA rights and retaliated against her for taking FMLA leave. Plaintiff's claim survived defendant's motion to dismiss. The court held that plaintiff's allegations that her supervisors contacted her via text and email "nonstop" during her FMLA leave and that her employment was terminated while on FMLA leave were enough to survive defendant's motion to dismiss.

***Nixon v. Anchor Glass Container Corp.*, 2024 WL 5046716 (M.D. Ga. Dec. 6, 2024)**

Plaintiff brought this action in federal district court for various claims including interference and retaliation with the FMLA. Plaintiff was a decades-long machinist with defendant and with a long history of documented attendance problems. Plaintiff requested FMLA leave due to his wife's serious health condition and defendant's third-party administrator ("TPA") requested certification, which plaintiff provided indicating he required intermittent leave up to four times per month, eight hours at a time. The TPA approved plaintiff's intermittent leave on a monthly basis. Plaintiff then requested a leave of multiple consecutive days at a time, which the TPA denied since it was inconsistent with the medical certification. When plaintiff made a similar request the following month he was told he needed to provide a new certification. When plaintiff took the requested leave days off, he was notified by defendant that he had exceeded the allotted absences and was placed on suspension pending termination. Plaintiff then produced a new medical certification, but defendant declined to overturn the previous absences. Plaintiff was terminated but following a union grievance he was reinstated under a last chance agreement. His FMLA was also requested and plaintiff took FMLA leave. However, after several violations of the last chance agreement not involving FMLA leave, plaintiff was again terminated. Plaintiff

Defendant moved for motion for summary judgment, and the court granted the motion on all claims. The court held plaintiff was not covered by FMLA at the time he took unauthorized leave and therefore the terms of the last chance agreement controlled the termination. For good measure the court reviewed the TPA's recertification request and found that it was "well rooted in case law" and practice. Without plaintiff presenting evidence that he was entitled to a benefit per the statutory framework, plaintiff had no FMLA benefit to which he was entitled to and, therefore, could not support his claim for interference.

As to retaliation, court found plaintiff failed to present any evidence that his termination was for using FMLA leave even where the court evaluated plaintiff's evidence for any possible temporal proximity inference. To the contrary, the court noted, "[defendant] displayed Job-like patience over the years with Plaintiff and his attendance issues, but at some point, an employer is allowed to expect their employees to follow the law, company policy, and frankly, to show up to work when scheduled. Absent evidence to call those actions into question, that is not retaliation." Appeal is pending at the Eleventh Circuit.

***Ritchea v. National World War II Museum, Inc.*, 2025 WL 2841695 (E.D. La. Oct. 7, 2025)**

Plaintiff, a museum employee, was experiencing a mental health condition for which she requested help from her employer, alternatively, leave under the FMLA or a reasonable accommodation under the ADA. Defendant investigated the mental health condition and concluded that plaintiff was not entitled to FMLA leave because she was not receiving medical care during the relevant time period and also contended she felt able to fully perform her job duties. Defendant asserted that it believed plaintiff had lied about her need for leave, and subsequently, plaintiff's employment was terminated due to defendant's "loss of trust" in plaintiff. Plaintiff brought suit, alleging, among other things, interference with her right to FMLA leave.

On summary judgment, the district court agreed that plaintiff had identified genuine issues of material fact as to her serious health condition and had supplied sufficient supporting evidence to preclude summary judgment, including a letter from a medical provider and her consistent disclosure of her "spiraling" mental health condition. Accordingly, the district court denied defendant's motion for summary judgment.

Summarized elsewhere

***Burton v. Univ. of Houston*, 2025 WL 92960 (S.D. Tex. Jan. 14, 2025)**

***Bynum v. Bandza*, 2025 WL 2308078 (C.D. Ill. Aug. 11, 2025)**

***Cain v. Jackson Public School District*, 2025 WL 2701696 (S.D. Miss. Sept. 22, 2025)**

***Caruso v. City of Hartford*, 2025 WL 2701909 (D. Conn. Sept. 23, 2025)**

***Forrest v. Zeeco, Inc.*, 2025 WL 2715479 (N.D. Okla. Sept. 23, 2025)**

***Holland v. Texas Christian Univ.*, 2025 WL 1002434 (N.D. Tex. Apr. 3, 2025)**

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

***Latham v. Brett/Robinson Corp.*, 2025 WL 1239908 (S.D. Ala. Apr. 30, 2025)**

***Lishego v. Tri Star Motors, Inc.*, 2025 WL 755532 (W.D. Pa. Mar. 10, 2025)**

***Mahramus v. Freshmark, Inc.*, 2025 WL 918522 (N.D. Ohio Mar. 26, 2025)**

***Mahran v. County of Cook Illinois*, 2025 WL 3004600 (N.D. Ill. Oct. 27, 2025)**

***Murphy v. Roundy's Inc.*, 2025 WL 1273405 (E.D. Wis. Apr. 2, 2025)**

***Myers v. Sunman-Dearborn Cmty. Sch.*, 142 F.4th 527 (7th Cir. 2025)**

***Tatum v. 10 Roads Express, LLC, et al.*, 760 F. Supp. 3d 615 (N.D. Ill. 2024)**

***Way v. City of Missouri City*, 133 F.4th 509 (5th Cir. 2025)**

2. Interference Claims

***Adams v. Columbia/HCA of New Orleans, Inc.*, 2025 WL 1937294 (5th Cir. Jul. 15, 2025)**

Plaintiff brought a claim against her former employer for interference with her rights under the FMLA. Plaintiff was approved for intermittent FMLA leave for a cell disorder, allergies and asthma. Around the same time, she was placed on a performance improvement plan and disciplined for repeated tardiness. In the goals section of the performance improvement plan, defendant wrote "expedite application to determine eligibility for use of FMLA for blocks of time missed from work. FMLA not to be applied to Tardy occur[re]nces." Plaintiff was told on several occasions not to use FMLA leave for tardy occurrences. Plaintiff did not request FMLA leave to cover her late arrivals as a result.

Plaintiff was disciplined for an inappropriate hand gesture to a co-worker and ultimately terminated for violating defendant's substance abuse policy. The Fifth Circuit upheld the district court's decision to grant summary judgment on the FMLA interference claim, finding that a reasonable person would not have been discouraged by defendant's comments because the district court correctly determined that plaintiff could not show that she was prejudiced by any discouragement. The FMLA provides no relief unless plaintiff can establish loss of compensation and benefits as a result of the violation or other monetary losses, or appropriate equitable relief including employment, reinstatement or promotion. The cause of action under the FMLA is a restricted one for damages defined and measured by actual monetary losses. Plaintiff did not assert that she incurred any monetary losses as a result of being discouraged from taking FMLA leave.

Plaintiff also claimed that defendant interfered with her FMLA rights by requiring her to report leave in 30-minute increments rather than the shortest time of leave Defendant uses for non-FMLA leave (15 minutes) and failing to provide written notice that FMLA would be charged against her paid time off. Because there was a previous appeal and these claims were not raised in the previous appeal, the district court deemed these arguments rejected. The Fifth Circuit affirmed the district court's decision to reject review of these claims.

***Balchan v. New York City Hous. Auth.*, 2025 WL 588021 (S.D.N.Y. Feb. 24, 2025)**

Plaintiff brought suit against his employer, the New York City Housing Authority, and several individual defendants. Plaintiff submitted a request for FMLA leave on September 13, 2021, but human resources initially misplaced the paperwork, so his FMLA leave was not

approved until September 27, 2021. During that time, defendants asked plaintiff to join a work meeting, and he did so remotely. Plaintiff argued that by doing so, defendants interfered with his rights under the FMLA. Defendants moved for summary judgment arguing that there was no interference because plaintiff was able to take the full leave of twelve weeks.

The court ruled that a reasonable jury may find that the mishandling of paperwork denied plaintiff the ability to understand his rights and benefits under FMLA and frustrated his efforts to exercise those rights. Additionally, the fact that plaintiff eventually took his full twelve weeks of FMLA leave does not mean that no reasonable jury could find that defendants interfered with plaintiff's FMLA rights. The court denied the motion for summary judgment on the FMLA interference claim.

***Banks v. Market Source, Inc.*, 2025 WL 1836599 (11th Cir. Jul. 3, 2025)**

Plaintiff sued defendant under the FMLA alleging FMLA interference and FMLA retaliation claims for her termination which occurred four days after plaintiff returned from approved FMLA leave. Plaintiff appealed the grant of summary judgment relating to her FMLA claims.

Prior to requesting FMLA, plaintiff received a performance improvement plan. While on the performance improvement plan, she informed her supervisor and HR about her chronic hypoglycemia. Plaintiff requested an accommodation of periodic 30-minute breaks relating to her hypoglycemia condition. Two weeks before the PIP ran its course, defendant decided to terminate plaintiff's employment. Defendant scheduled a meeting with plaintiff a week after its decision was made to terminate her employment. However, three days before the scheduled termination meeting, plaintiff called in sick because of her hypoglycemia and requested two weeks of full-time FMLA leave. Plaintiff's FMLA leave was approved and extended twice. Six weeks after the decision to terminate plaintiff was made, plaintiff returned to work and worked 4 days, and defendant then notified her of her termination.

The Eleventh Circuit stated under interference claims, if an employer can show that it refused to reinstate the employee for reasons wholly unrelated to FMLA leave, the employer is not liable. Plaintiff's first attempt to exercise FMLA leave was 5 days after defendant had already decided to terminate her employment. Therefore, her interference claim failed. Plaintiff's retaliation claim was also properly dismissed at the summary judgment stage, as the termination was not related to the FMLA leave request since the statutorily protected activity of seeking full-time FMLA leave had not yet occurred when the decision to terminate was made. Therefore, the Eleventh Circuit upheld the district court's summary judgment determination on the FMLA retaliation and interference claims.

***Beal v. Chicago Transit Authority*, 2025 WL 217326 (N.D. Ill. Jul. 31, 2025)**

Plaintiff worked as a Rails Control Inspector for the Chicago Transit Authority. Defendant fired plaintiff on January 7, 2022 for being absent for 64 days without approved leave. Plaintiff claims defendant forced him to go home on October 8, 2021, after he presented medical work restrictions stemming from a workplace injury that occurred January 15,

2021, when he fell between rail cars into a pit. Prior to the work-related injury, plaintiff had been approved for intermittent FMLA leave related to a diagnosis of Sjogren's Syndrome. On October 8, 2021, plaintiff requested light duty restrictions as a result of his work-related injury. The employer refused to accommodate the light duty restrictions and instead sent the employee home. On October 8, 2021, defendant approved plaintiff's request for intermittent FMLA leave through to January 1, 2022. After October 8, 2021, plaintiff did not return to work, nor did he call in his absences every day. Plaintiff believed he was placed on leave, and he was waiting on a determination for his workers' compensation claim. After October 8, 2021, defendant sent letters over a two-month time period notifying plaintiff he was absent without approved leave (AWOL). On January 7, 2022, plaintiff's employment was terminated for being absent 64 consecutive days and not reporting for duty or calling in his absences and for not providing any documentation to substantiate his continued failure to report for duty.

Plaintiff filed an interference and retaliation claim under the FMLA. Defendant reinstated plaintiff to his former position after the lawsuit was filed. Defendant filed a summary judgment motion on the FMLA interference and retaliation claims. The FMLA interference claim was dismissed because plaintiff testified during depositions that he was not asking to take any time off work after October 8, 2021; he simply wanted to work within his restrictions. Plaintiff's failure to establish he intended to take FMLA leave during the 64 days he was absent thus foreclosed his claim of an interference claim. The court reasoned a plaintiff is required to invoke his FMLA rights in order to bring an FMLA interference claim and failure to do so warranted summary judgment. Although plaintiff's intermittent FMLA leave had been approved, he was still required to follow defendant's procedures to take intermittent leave. He failed to follow defendant's policy.

Defendant's motion for summary judgment on the FMLA retaliation claim was also granted, as plaintiff failed to establish any of the decisionmakers who terminated his employment had any knowledge of his prior intermittent FMLA leave between 2020 and October 2021.

***Bobnar v. AstraZeneca Pharms LP*, 758 F. Supp. 3d 690 (N.D. Ohio 2024)**

Plaintiff, a biologics sales specialist, alleged that defendant unlawfully interfered with his FMLA rights by requiring him to work during FMLA leave and firing him while on FMLA leave. While plaintiff sought a religious exemption from defendant's mandatory COVID-19 vaccination policy, he also applied for paternity leave under the FMLA. Defendant denied plaintiff's religious exemption request, but approved FMLA leave three weeks later. While on leave, plaintiff received multiple calls from coworkers and customers to transfer scheduled sales meetings and to discuss other sales-related activities. Plaintiff's employment was then terminated while on leave, and this termination was later announced during a conference call attended by plaintiff. After the call, team members contacted plaintiff. Plaintiff's manager also contacted him to discuss off-boarding and met with him at a coffee shop. Plaintiff conceded the team members' subsequent calls were not harassment. However, plaintiff alleged that the other communications involving sales activities and offboarding were harassment. In total, plaintiff alleged spending ten hours communicating with other employees while on FMLA leave—five of which concerned off-boarding.

After extended motion practice, the District Court for the Northern District of Ohio considered the parties' competing motions for summary judgment. First, defendant argued that, due to plaintiff's refusal to comply with defendant's vaccination mandate, it was already going to terminate plaintiff's employment. Thus, plaintiff's termination was not based in whole, or in part, on his FMLA leave. Second, defendant argued that any contacts with plaintiff were *de minimis* and did not substantiate a material interference under the FMLA.

Relying on Sixth Circuit case law, the court held an employee who requests FMLA leave has no greater protections against termination for reasons unrelated to the FMLA leave request than the employee would have had if the request were not made. Thus, although plaintiff's termination was not finalized until he was on leave, "the wheels of termination had already been put into motion." The court also held that defendant's contacts with plaintiff during FMLA leave did not constitute interference with FMLA rights. To constitute actionable interference in the Sixth Circuit, defendant must generally have required plaintiff to perform the work. *De minimis* contacts were not violations. The court held that the five hours plaintiff had spent off-boarding were *de minimis*, noting that contacts limited to the scope of passing on institutional knowledge or providing closure on assignments were not FMLA violations. The court similarly held contacts to transfer scheduled meetings to coworkers were *de minimis* and amounted to passing on institutional knowledge. Further, plaintiff accepted calls from coworkers after plaintiff's termination on plaintiff's own volition. Thus, all work performed by plaintiff during the FMLA period was either passing on institutional knowledge or voluntarily accepted by plaintiff. The court granted summary judgment in favor of defendant.

***Chapman-Pinto v. Amazon.com Services, LLC*, 2025 WL 42157 (D. Nev. Jan. 6, 2025)**

Plaintiff, an employee at a sorting facility, sued her former employer for FMLA interference in the United States District Court for the District of Nevada. Plaintiff sought reinstatement after claiming she was terminated due to her disability. Defendant claims plaintiff was not terminated, but rather resigned. Defendant moved for summary judgment on plaintiff's FMLA claim, which the court denied.

Defendant conceded that plaintiff was eligible for FMLA leave, entitled to leave, and that her leave was approved. However, defendant claimed plaintiff was not entitled to reinstatement because plaintiff requested to transfer, which is not an available form of relief under the FMLA. While plaintiff did request to transfer, she maintained that she did not resign and would have returned to work at her regular location until the transfer was finalized. Plaintiff presented emails supporting her position.

The court determined there was a genuine issue of material fact as to whether plaintiff resigned or was terminated. Therefore, summary judgment was not appropriate on plaintiff's FMLA interference claim.

***Clark v. Geisinger Health System*, 2025 WL 1839498 (M.D. Pa. Jul. 3, 2025)**

Plaintiff was a clinic RN for defendant. Due to performance issues, she was placed on a PIP. She initially received strong ratings but one of her supervisors made comments relating to her attendance noting her use of FMLA leave. The company reorganized and eliminated the clinic RN position for business reasons while she was out on leave, but she was allowed to return

to that position when her leave expired and given 30 days to interview for an alternate position. When that failed to happen, she was laid off.

She filed a complaint for FMLA interference and retaliation, among other claims. The Court granted summary judgment on her FMLA retaliation claim because Defendant had legitimate reasons for both the PIP and her termination under the *McDonnell Douglas* framework. Her interference claim survived summary judgment because of the negative comments made about her attendance at work and her use of FMLA leave by a supervisor.

***Clevenger v. A.M. Castle & Co.*, 2025 WL 964941 (N.D. Ill. Mar. 31, 2025)**

Plaintiff was terminated five months after her husband's cancer diagnosis for allegedly failing to meet performance goals in a performance improvement plan. Plaintiff filed alleging FMLA retaliation and interference. Specifically, plaintiff alleged defendant retaliated against her due to fear she would be inattentive to her work because of her husband's diagnosis. Further, plaintiff alleged defendant terminated her employment just before she would become eligible for FMLA leave. The court granted summary judgment for defendant on both claims.

The employer argued that Plaintiff's FMLA claims failed because she had not yet reached her one-year employment anniversary when she was terminated and was therefore ineligible for FMLA leave. However, other district courts had found that the FMLA affords an employee protection if, prior to becoming FMLA eligible, the employee "put [her employer] on notice that she was requesting leave to be taken once she became eligible." Here, there was no evidence plaintiff put defendant on notice that she was requesting FMLA leave once she became eligible. Plaintiff had no pending leave request when she was terminated, and therefore, her FMLA claims were dismissed at summary judgment.

***Degraffreed v. City of Memphis*, 2025 WL 1840729 (W.D. Tn. Jul. 3, 2025)**

Both plaintiff, a City of Memphis employee, and defendant, the City, sought summary judgment on plaintiff's claim for FMLA interference. At issue was the sufficiency of the certification plaintiff's healthcare provider submitted and defendant's communication regarding the deficient certification.

Plaintiff's healthcare provider faxed a completed form to the employer identifying plaintiff's requested leave dates; however, it left the section regarding the frequency and duration of episodic flare ups of plaintiff's condition blank. Therefore, defendant deemed the certification incomplete. The employer sent two letters to plaintiff—which plaintiff contends she did not receive—indicating the certification was incomplete and setting a deadline for submission of a complete and accurate form. After plaintiff failed to correct the certification by the deadline, defendant notified plaintiff her FMLA request was denied. She was later suspended for five days without pay for unauthorized sick leave.

The Western District of Tennessee held that the certification was incomplete due to the missing frequency and duration information because it was unclear whether plaintiff was requesting intermittent or continuous leave. Additionally, the court found that there were credibility issues regarding whether plaintiff received proper notice of the deficiencies.

Defendant alleged it sent two letters to plaintiff notifying her of the certification deficiencies. The court noted, however, that neither letter advised plaintiff specifically what deficiencies required completion. Because the letters from defendant were ambiguous—if they were received at all—the court refused to find on summary judgment that defendant's communications were sufficient under the requirements of 29 C.F.R. § 825.305(c). Therefore, the court denied both parties' motions for summary judgment.

***DiLorenzo v. J. Crew Group, LLC*, 2025 WL 753948 (S.D.N.Y. Mar. 10, 2025)**

Plaintiff, the former General Counsel of J. Crew, brought an action against the company, its Chief Operating Officer, Chief Executive Officer and plaintiff's direct supervisor. In 2014, defendant hired plaintiff, who began working remotely the following year, and employed her until her termination in November 2021. Plaintiff asserted various claims including interference with rights under the Family and Medical Leave Act ("FMLA"). Plaintiff and defendants entered into a stipulation to stay the action pending arbitration and subsequently proceeded to arbitration. The arbitrator ruled in favor of defendants, finding no violation of plaintiff's rights under the FMLA.

Plaintiff opposed confirmation of the arbitration award, arguing that the arbitrator acted in "manifest disregard" of the law in various respects. Plaintiff claimed that defendants interfered with her FMLA rights during the paid time off ("PTO") she took following surgery. She argued that work-related communications from her supervisor during her PTO constituted interference with her FMLA rights. The court found in favor of defendants, confirming the award that found no interference with the employee's FMLA rights.

The court disagreed with plaintiff's argument, finding that the arbitrator applied the legal principles correctly and did not manifestly disregard the law. The arbitrator concluded that defendants did not interfere with plaintiff's FMLA rights, as she chose to take paid time off instead of FMLA leave, and defendants did not dissuade her from taking FMLA leave. All her requests for time off and to work remotely were granted. Additionally, the arbitrator found that defendants provided legitimate, nondiscriminatory reasons for her termination, and found no evidence of retaliatory intent. The court confirmed the arbitration award, as there was no basis to vacate it, and dismissed the complaint with prejudice. The arbitrator also rejected the argument that work-related communications during her PTO interfered with her FMLA rights.

***Garrison v. Dumas Public School District*, 2025 WL 1947774 (E.D. Ark. Jul. 15, 2025).**

Plaintiff, a public school teacher, filed claims against her employer alleging FMLA interference. Following a motor vehicle accident in which she was injured, plaintiff was granted FMLA leave for approximately two months. During her period of FMLA leave, plaintiff regularly communicated with the replacement teacher, who was not a full time substitute, and school administrators, as well as created a Google Classroom portal and regularly prepared online learning program assignments for her students. Plaintiff alleged that defendant continuously contacted her and forced her to perform work tasks while on leave, which amounted to interference.

The court granted defendant's motion for summary judgment, relying on plaintiff's own deposition testimony that no one gave her a direct order to perform any work while on leave. The court rejected plaintiff's arguments that the pressure she felt to work, caused by the employer's 1) failure to prohibit work while on FMLA leave, 2) attendance and assignment-related expectations for teachers in the event of an absence, and 3) failure to secure a long term substitute, amounted to FMLA interference. The court further noted that no reasonable jury could find for plaintiff where she erroneously believed that she was required to perform job duties while on leave, she did perform her job duties while on leave, she initiated contact about working from home, and chose to maintain control over her classes throughout her leave period. The FMLA does not place additional obligations on an employer regarding notification of rights other than notifying employees that they have the right to take unpaid, job-protected FMLA leave.

***Gilbert v. City of Newport*, 2024 WL 5046712 (E.D. Tenn. Dec. 9, 2024)**

Firefighter who had resigned brought suit against city employer alleging retaliation and interference with leave in violation of the FMLA, among other statutes. After taking FMLA leave to treat alcohol dependency, employee returned to work and engaged in conduct the employer deemed terminable. Two days after the conduct, but before the employer notified the employee that it sought to terminate him, employee requested FMLA leave. Employee requested 3-12 months of FMLA leave but only had 3 weeks remaining for the 12-months period. Employee resigned the day after being told the employer was seeking to terminate him.

The Court granted summary judgment to the employer on all claims. The Court held that, even if it decided that employee was constructively discharged, employee's interference claim failed because employee's FMLA request was made after the terminable conduct, and thus employer was not obligated to provide the requested leave. The Court also held that the retaliation claim failed because the employer provided a legitimate, nondiscriminatory basis for termination, and the employee could not establish pretext.

***Gipson v. Cincinnati Children's Hosp. Med. Ctr*, 2025 WL 1557950 (S.D. Ohio Jun. 2, 2025)**

Nurse who was terminated brought suit against hospital employer alleging retaliation and interference with leave in violation of the FMLA. Employee took FMLA leave as needed to care for her children with medical issues. Employee, who had previously received coaching and a formal reprimand for poor performance, as well as attendance and notification issues, was terminated for an operating room incident where she increased the setting on a skin-cutting machine when she was supposed to decrease it.

The Court granted summary judgment to the employer on all claims. The Court held that, employee's interference claim failed because employee received all the FMLA leave she requested and employee's assertions that her supervisors "gave her a hard time" for using FMLA leave were not sufficient to establish that use of FMLA leave was discouraged or chilled. The Court also held that the retaliation claim failed because, even if the employee had made a prima facie case, the employer provided a legitimate, nondiscriminatory basis for termination, and the employee could not establish pretext.

***Hempen v. City of Nashville, Illinois*, 2025 WL 587744 (S.D. Ill. Feb. 24, 2025)**

Plaintiff suffered from and was diagnosed with vertigo. Plaintiff worked as a Utility Worker in the Water Plant for the City of Nashville, Illinois. During his employment, plaintiff suffered multiple vertigo episodes. In January of 2021, plaintiff refused to participate in an OSHA-required apparatus test, because he said the mask would not fit around his glasses. Additionally, in January, plaintiff left work in the middle of his shift without providing notice to his supervisor. Plaintiff was then terminated. Plaintiff brought suit alleged FMLA interference and discrimination.

The court denied defendant summary judgment on the FMLA interference claim, finding that plaintiff had a serious health condition as defined by the FMLA, and that the City had sufficient knowledge that he might be using sick time for an FMLA-qualified reason, but failed to notify him of his right to take intermittent leave. However, the court granted defendant summary judgment on the discrimination claim, finding that plaintiff has not produced any evidence that the reasons for his termination based on his work performance were pretextual.

***Jiggetts v. Cipullo*, 774 F. Supp. 3d 168 (D.D.C. 2025)**

Two plaintiffs, both non-attorney employees of the Superior Court for the District of Columbia, brought suit against their employer and several employees of the Superior Court. Plaintiffs brought claims under, inter alia, the FMLA. Defendants moved for summary judgment, and one of the two plaintiffs' FMLA claims survived summary judgment.

The first plaintiff alleged defendants willfully interfered with plaintiff's FMLA leave—which largely consisted of working half-days—by peppering plaintiff with emails, assigning projects with deadlines disproportionate to a reduced work schedule, and berating plaintiff for failure to comply with these deadlines. The court held the provided email exchanges showed a genuine dispute of material fact existed as to whether plaintiff had worked in the afternoon. A jury could find in favor of plaintiff, as interference need not be effective to be actionable and work requests during FMLA leave could constitute interference. The court also noted the potentially willful nature of defendants' actions could allow plaintiff to recover by extending the statute of limitations to three years.

The second plaintiff pleaded FMLA interference and retaliation. This plaintiff similarly alleged receiving work requests while on leave. Some of these requests stemmed from an Employee Improvement Plan implemented after plaintiff received a poor performance evaluation. Defendant instituted this plan prior to plaintiff taking FMLA leave. The court granted defendants' motion for summary judgment, as plaintiff submitted no evidence to support the allegations. Further, the court noted that employers need not suspend previously planned adverse actions—in this case, the Employee Improvement Plan—and that continuing previously contemplated actions is not itself evidence of causation.

***Ledbetter v. Freeman*, 2025 WL 2306225 (S.D. Ill. Aug. 11, 2025)**

Plaintiff brought suit under, *inter alia*, the FMLA against county employer alleging that it had interfered with his right to reinstatement following FMLA leave and retaliated against him for taking FMLA leave, when it reinstated him to the position of dispatcher rather than bus driver. Plaintiff previously worked for defendant as a bus driver but hurt his back such that he could not assist wheelchair-using bus passengers on and off the bus. He received an accommodation for this injury and was allowed to continue in the role of bus driver. He subsequently burned his foot, though, and took FMLA leave to recover. Upon his return from FMLA leave, defendant reinstated him to the position of dispatcher rather than bus driver.

On summary judgment, the district court held that it did not need to reach the issue of whether reinstating plaintiff as a dispatcher rather than bus driver violated the FMLA, because it had occurred more than two years prior to the filing date of the lawsuit, and plaintiff had not sufficiently shown willfulness. The court reasoned that the dispatcher role "appeared to qualify….as an 'equivalent position'" under the FMLA, and that defendant "arguably satisfied the FMLA's reinstatement requirement" because, with his back injury, plaintiff could not perform the essential duty of assisting wheelchair users on and off of the bus.

The court similarly held that plaintiff had not shown retaliation. The court explained that the record showed that plaintiff could not perform the essential bus driver duty of assisting wheelchair users. Moreover, even though defendant had previously accommodated this inability, the Executive Director of plaintiff's employing agency changed while plaintiff was on leave, and the new Executive Director had a stricter policy towards accommodation. As such, the post-FMLA leave change in posture from accommodating plaintiff as a bus driver to instead reinstating him as a dispatcher could not be ascribed to retaliatory intent.

***Little v. Gray Media Group, Inc.*, 790 F.Supp.3d 1195 (D. Kan. 2025)**

Plaintiff, a Chief Meteorologist employed by defendant media company, filed a lawsuit alleging FMLA interference on the grounds that she was denied reinstatement following a period of FMLA leave. The district court granted summary judgment to defendant. Although the court explained that a reasonable jury could find that failing to allow plaintiff back on the air constituted a denial of reinstatement even where she retained her title and received full pay, the court further concluded that defendant met its burden to show that its decision not to reinstate plaintiff was not related to plaintiff's FMLA rights. Uncontroverted evidence showed that plaintiff's co-workers had described her as disruptive and toxic to the work environment and defendant would have terminated plaintiff regardless of whether she took FMLA leave. Appeal is pending at the Eleventh Circuit.

***Maluf v. Bergelectric Corp.*, 2025 WL 1898053 (D. Nev. Jul. 9, 2025)**

Plaintiff sued defendant alleging interference with his FMLA rights after he was reassigned and demoted after returning from FMLA leave. Defendant filed a motion for summary judgment on all claims. Defendant argued that the claim was a retaliation claim, however, the court determined the claim to be an interference claim because plaintiff was subject to negative consequences because he took FMLA leave. The court stated that the Ninth Circuit does not use the *McDonnell-Douglas* burden-shifting framework in FMLA interference claims.

Instead, plaintiff must show: 1) involvement in a protected activity under the FMLA; 2) an adverse employment action; and 3) a causal link between the protected activity and the employment action. The court found no evidence of a causal connection. Plaintiff was reassigned before taking FMLA leave and his wages changed because the positions in the different projects had different wage rates. The court found that the temporal proximity of the changes was not sufficient evidence to create an issue of fact to overcome summary judgment. For these reasons, the court granted defendant's motion for summary judgment on this claim.

***Murphy v. Forest River, Inc.*, 2025 WL 2779342 (N.D. Ind. Sept. 29, 2025)**

Plaintiff brought suit in federal court for various claims including FMLA interference and retaliation. While at work, plaintiff lost his temper and exploded on IT staff for failure to help him recover his lost work, including making threatening statements. Plaintiff self-reported the incident to management and was placed on remote work until completion of an internal investigation. During the investigation, plaintiff's private counselor conferenced with management and disclosed that plaintiff was in therapy for anger management and also shared plaintiff's diagnosis for anxiety and depression. Defendant subsequently placed plaintiff on FMLA leave. Defendant's FMLA leave form did not indicate whether defendant would require a medical certification to return to work. Defendant also requested that plaintiff provide "some" statement from "any" health provider indicating if plaintiff "needed additional time off and if he was safe to return to work." Later, defendant sent plaintiff a questionnaire to be completed by plaintiff's healthcare provider(s) and a letter apprising plaintiff that his FMLA time was about to expire. Plaintiff did not seek a healthcare provider's response to the questionnaire and instead provided a reply questioning the involuntary FMLA placement and health certification requirement to be reinstated to his position. Defendant followed up with a second request for the questionnaire's completion and provided a deadline. Plaintiff ignored the deadline, did not submit a completed questionnaire, and was terminated.

The court granted summary judgment for defendants. Regarding the interference claim, the court rejected plaintiff's argument that involuntarily putting him on leave, refusing to reinstate him, and requiring a medical certification without having checked the box on a form each provide him a viable interference claim. The court held that typically an involuntary-leave interference claim ripens only when and if the employee seeks FMLA leave at a later date, and such leave is not available because the employee was wrongfully forced to use FMLA leave in the past. Since plaintiff maintained that the forced leave alone established the claim, without being denied any benefits, the court dismissed the claim. The court also rejected plaintiff's argument that he was denied the right to reinstatement, holding that the right to reinstatement is not absolute and plaintiff's threatening behavior prior to his leave was ground to fire him. As for plaintiff's argument that defendant failed to give him written notice of a fitness for duty test, the court held that even if defendant failed to comply with the FMLA notice requirements, that only constitutes interference if plaintiff shows "some impairment of his rights and resulting prejudice," which plaintiff could not show.

The court also held that since plaintiff showed no evidence that he was fired for taking the FMLA leave, his FMLA retaliation claim should also be dismissed.

***Owens v. Univ. of N. Carolina at Pembroke*, 2025 WL 242530 (E.D.N.C. Jan. 17, 2025)**

Plaintiff worked for defendant in the university's financial aid department. Plaintiff notified her supervisors that she was pregnant and was later diagnosed with pregnancy complications and notified her supervisors of her diagnosis and risk of early labor. Shortly after this, plaintiff contracted COVID-19 and required hospitalization. Plaintiff's husband then made a formal request for leave under the FMLA on plaintiff's behalf. Plaintiff was terminated, which defendant stated was due to plaintiff's failure to call out of work when she was hospitalized.

Plaintiff sued defendant for interference with her rights under the FMLA, which defendant moved to dismiss. The court denied defendant's motion to dismiss, rejecting defendant's argument that plaintiff was not entitled to FMLA leave at the time of her termination and thus was not protected under the Act. The court stated that although there is no clear precedent that one who may not be entitled to leave under the FMLA avails themselves of a protected right when requesting such leave, firing an employee for asking for leave would frustrate the purpose of the Act, even if the employee is not actually eligible for the leave. The court noted that the Eleventh Circuit recently found that because the FMLA requires notice in advance of future leave, employees are protected from interference prior to the occurrence of a triggering event, like childbirth. The court also noted that the FMLA also references "employees" rather than "eligible employees."

***Peters v. Se. Arkansas Behav. Healthcare Sys., Inc.*, 2025 WL 623642 (E.D. Ark. Feb. 26, 2025), aff'd, 2025 WL 2846439 (8th Cir. Oct. 8, 2025).**

Plaintiff brought several claims against defendant, including for FMLA interference and retaliation. Defendant sought summary judgment on all of plaintiff's claims, which the Eastern District of Arkansas granted.

First, plaintiff claimed defendant interfered with his FMLA rights when it did not immediately approve his request for two weeks of "sick leave." Initially, defendant did not view the request as a request for FMLA. However, once plaintiff made it clear that he was seeking FMLA leave, defendant provided notice of his rights and a request for a medical certification. Once plaintiff provided a complete and sufficient medical certification, his FMLA leave was approved and he was paid sick leave for the time he was off work. The court did not find any interference where defendant only approved FMLA leave after it received a medical certification.

Second, plaintiff claimed interference when he sought FMLA leave on two additional occasions by calling his supervisor to notify him of the absences, but the supervisor failed to respond. Plaintiff did not provide any evidence of the supposed calls to his supervisor, and he did not follow the leave request process (as he had previously done) for these incidents. The court found no interference with plaintiff's FMLA rights with regard to these incidents.

Finally, plaintiff claimed his termination was in retaliation for taking FMLA leave. Plaintiff specifically noted that his termination occurred only two days after his second request for FMLA leave. The court assumed that plaintiff established a prima facie claim of retaliation.

However, defendant presented evidence of a legitimate basis for the termination—specifically, plaintiff's insubordinate and disrespectful behavior toward his supervisor. Moreover, defendant undercut the proximity argument by establishing that the supervisor had raised misconduct issues with plaintiff before he sought FMLA leave. The court found that timing alone, particularly in light of undercutting the significance of the temporal proximity, was insufficient to establish pretext. Thus, the court granted summary judgment on the retaliation claim as well.

***Proffitt v. Ne. Loc. Sch. Dist. Bd. of Educ.*, 2025 WL 1736231 (S.D. Ohio Jun. 23, 2025)**

Plaintiff brought an FMLA interference claim after defendant failed to renew her contract for the school year following her use of FMLA leave. Plaintiff started working for defendant in 2019, and starting in 2022, defendant began documenting several performance problems with plaintiff. For example, her annual evaluation was poor, and her supervisor was receiving frequent complaints about plaintiff, including many from the same co-worker. The supervisor ultimately put plaintiff on a performance improvement plan in November of 2022.

Plaintiff's dispute with her co-worker came to a head in early 2023, when the two met to discuss ongoing problems. Plaintiff alleges that her co-worker was so mercilessly berating that plaintiff's pre-existing conditions of ADHD, anxiety and PTSD were triggered. However, plaintiff had never informed defendant of any of these pre-existing conditions. Plaintiff submitted a formal complaint about her co-worker to her supervisor the next day.

A few days after making the complaint, plaintiff applied and was approved for FMLA, which did not conclude before the end of the school year. Prior to the end of the school year, the supervisor prepared plaintiff's end of year evaluation using data compiled before plaintiff's FMLA leave. The evaluation reflected that plaintiff was either developing or ineffective in half of all metrics on the evaluation. Based on the evaluation, the supervisor recommended nonrenewal of plaintiff's contract for the following school year, and the district agreed.

In its motion for summary judgment, defendant argued that it would have made the same recommendation—nonrenwal of plaintiff's contract—regardless of whether she took FMLA or not. But in the supervisor's deposition, he admitted that he was unable to adequately measure the entirety of plaintiff's performance for the evaluation period because plaintiff was on FMLA leave. Likewise, the supervisor admitted that plaintiff was unable to complete the performance improvement plan because of her leave. The court found that this admission by the supervisor created a question of fact for the jury to decide whether plaintiff's FMLA leave was negatively taken into account in the nonrenewal decision. The court, thus, denied defendant's motion for summary judgment as to the FMLA interference claim.

***Ramkissoon v. Farmington Care Ctr., LLC*, 2025 WL 1742968, (Conn. Super. Ct. Jun. 16, 2025)**

Plaintiff worked as a Licensed Practical Nurse for defendant, a care center operator, for 18 years. In 2020, when her husband contracted COVID-19, plaintiff requested leave to care for her husband, which defendant denied. After plaintiff's husband's death two weeks later, defendant refused to allow plaintiff to return to work. Plaintiff subsequently filed suit in a

Connecticut state trial court for retaliation and interference under the FMLA. Following trial, a jury returned a verdict for plaintiff in the amount of $257,000, finding that plaintiff had proven her case for interference, but that plaintiff had failed to show that refusing to allow her to return to work was an adverse action, and therefore finding for Defendant with respect to the retaliation claim. Defendant then filed a motion to set aside the verdict and plaintiff filed a motion for attorneys' fees and costs. In its opinion, the court denied the motion to set aside the verdict and granted plaintiff's motion for fees and costs.

In its motion, defendant argued that it was improper to allow the jury to consider defendant's refusal to allow plaintiff back to work following her leave as grounds to find interference, as opposed to retaliation. The trial court rejected this argument, reasoning that reinstatement is itself a right granted by the FMLA, and so termination following protected leave could constitute both retaliation and interference. Defendant also argued that the jury's finding that there was no adverse action in the context of the retaliation claim was inconsistent with its verdict that refusing to allow plaintiff to return to work constituted unlawful interference. The trial court rejected this argument as well, citing the differing legal theories underlying retaliation and interference claims. Defendant also objected to the verdict to the extent it was based on actions related to plaintiff's own mental health issues, rather than her role as caregiver for her husband, because she was not undergoing continuous treatment for those issues. The court declined to address this argument because of the alternative, sufficient grounds for the jury verdict.

Finally, the trial court also rejected defendant's argument that the fees sought by plaintiff were too high because the case represented a "compromise verdict," awarding some amount less than actually submitted by plaintiff as the damages owed. The court reasoned that it was well within the jury's discretion to award amounts less than sought by counsel in closing argument. The trial court awarded fees and costs, post-judgment interest using the Board of Governors of the Federal Reserve's daily interest rates, and liquidated damages in the amount of the award plus interest.

***Ramsey v. San Jacinto Coll. Dist.*, 2025 WL 1261027 (S.D. Tex. Apr. 30, 2025)**

Plaintiff, manager of learning technology for defendant San Jacinto College District., brought suit in the District Court for the Southern District of Texas alleging FMLA interference and retaliation. Defendant moved for summary judgment on both claims. First, defendant argued plaintiff's interference claim should be dismissed because plaintiff cannot show defendant denied her FMLA benefits or that any such denial prejudiced her. Defendant argued that plaintiff expressly testified she requested FMLA leave and took all the leave she needed. The court found that plaintiff's counter that defendant "interfered with, restrained, or denied [Plaintiff] FMLA leave" without identifying specific evidence failed to raise a genuine dispute of material fact, and thus held that defendant was entitled to summary judgment on the interference claim.

Second, defendant argued the retaliation claim should be dismissed because (1) plaintiff failed to show a causal link between her FMLA leave and termination, and (2) plaintiff was terminated for a legitimate non-retaliatory reason. In evaluating a causal link, courts consider the "temporal proximity" between the FMLA leave and termination. The court agreed with plaintiff

that the temporal proximity between her leave and termination was sufficient to establish a causal link. Specifically, the court held that the less than two-month gap between her termination and the revision of her leave, as well as the less than three-month gap between her termination and the retroactive approval of her FMLA leave were enough to show a causal link. In regard to defendant's argument that plaintiff was terminated for legitimate non-retaliatory reasons, plaintiff asserted there was evidence showing her leave was a motivating factor, citing generally to the background section in her complaint. However, the court held that a general record cite is insufficient and a plaintiff must instead identify specific evidence in the record demonstrating that termination was a pretext for retaliation. The court found that plaintiff failed to do so; thus, it held that defendant was entitled to summary judgment on the retaliation claim.

***Reid v. Wrought Washer Mfg., Inc.*, 2024 WL 4708037 (E.D. Wis. Nov. 7, 2024)**

Plaintiff was employed by defendant, a manufacturing company, for over 20 years. By 2018, defendant made plaintiff a "New Product Development Manager," which she held until her termination in 2020. In the months leading up to her termination, plaintiff requested FMLA leave for an elective surgery, which defendant approved. However, plaintiff alleged that she overheard the company president say, "I can't believe you're going to be gone," and part of another conversation in which she heard her name and the words "FMLA." These and other interactions led her to believe that management was "upset" with her taking FMLA leave, and so she withdrew the request shortly after it was granted. That same day, she submitted another FMLA request to care for her mother, whose health was failing. Defendant granted approval for intermittent FMLA leave but told plaintiff she would not be paid for her time off. Plaintiff elected to work full-time instead of taking the approved intermittent leave, while still caring for her mother. Plaintiff's mother passed away in July 2020, and a few days later, defendant notified her that she was being terminated for performance issues.

Plaintiff then sued in Wisconsin district court asserting claims of FMLA interference and retaliation. Defendant moved for summary judgment, which the district court granted, dismissing the case with prejudice. With respect to the interference claim, the district court concluded that there had been no interference because plaintiff never actually took the approved FMLA leave, and in fact, evidence showed that her employer had encouraged her to take the leave, but she elected not to do so. Plaintiff also argued that defendant's insistence her leave would be unpaid was itself interference, but the court ruled that argument was waived because plaintiff failed to raise it until her reply brief.

With respect to plaintiff's retaliation claim, the court found the "mosaic of circumstantial evidence" insufficient to support a finding that the protected activity and plaintiff's termination were causally connected. In reaching this conclusion, the court emphasized that plaintiff had voluntarily elected to take on full-time duties while caring for her mother, and that the resulting performance issues were undisputed. The court also found fault in plaintiff's evidence of actual retaliatory motivation in her employer. The overheard conversations and interactions plaintiff cited in support, the court reasoned, occurred too long before plaintiff's termination and were too ambiguous to support an inference of unlawful intent.

***Thomas v. United States Postal Serv.*, 2024 WL 5047461 (E.D. Mich. Dec. 9, 2024)**

Plaintiff, who had worked in various positions and locations for defendant, brought suit in the United States District Court for the Eastern District of Michigan, alleging, among other things, retaliation and interference in violation of FMLA. Upon defendant's motion, the court dismissed all of plaintiff's claims except the FMLA claims. Defendants moved for summary judgment on plaintiff's FMLA claims.

Plaintiff claimed he resigned due to constructive discharge caused by FMLA retaliation, specifically, subjecting him to yelling, classifying his absences as AWOL instead of FMLA leave, and altering his hours to make him ineligible for FMLA leave with the purpose of firing him. In finding that plaintiff was not constructively discharged for his attempts to take FMLA leave, the court noted that plaintiff's assertions alone that he was yelled at and ridiculed failed to rise to a level that would constitute intolerable conduct and constructive discharge. Furthermore, defendant introduced evidence that plaintiff was improperly using FMLA leave to avoid specific and legitimate work assignments. Even with plaintiff's refusal to work specific assignments, defendant never changed any condition of plaintiff's employment nor disciplined him for his unexcused absences. The court therefore found that there was no evidence to suggest that defendant engaged in any conduct to encourage plaintiff to resign. Finally, the court found that there was no evidence to support plaintiff's claim that defendant altered his hours but instead confirmed that plaintiff failed to work the minimum threshold to entitle him to FMLA leave due to his numerous absences over a period of time. The court therefore found that plaintiff was not constructively discharged.

The court also addressed plaintiff's complaint regarding FMLA interference. First, the court found that plaintiff requested unpaid leave and reasoned that because he was never intended to receive compensation, he lost no compensation as a result of his absences being marked as something other than FMLA leave. Plaintiff was also not disciplined for his absences in a way that resulted in actual damages or prejudice. The court also found that defendant provided ample evidence that suggests that plaintiff was attempting to take FMLA leave for an improper purpose, noting that it is undisputed that peaceful protests and a mere desire not to work a particular assignment are not legitimate reasons to take FMLA leave. Thus, the court found that defendant was operating under an honest belief that plaintiff was asking for FMLA leave for an improper purpose and was therefore entitled to deny plaintiff's request for leave. Appeal is pending at the Sixth Circuit.

***Valdez v. Methodist Hosps. of Dallas*, 2024 WL 5189602 (N.D. Tex. Dec. 20, 2024)**

Plaintiff, an employee, sued her former employer, including an interference claim under the FMLA. The district court denied defendant's motion for summary judgment on plaintiff's FMLA interference claim, and defendant moved the court for reconsideration, which the court also denied.

Defendant argued plaintiff's FMLA interference claim should have been construed as a retaliation claim and the court should apply the "but for causation" standard to it. Defendant incorrectly argued that interference claims only apply to current employees, and since plaintiff was terminated prior to starting her leave, she could not bring an interference claim. The court

rejected defendant's argument, holding that defendant incorrectly interpreted precedent. The court clarified that if an employee is fired for a legal reason, then she can typically only obtain FMLA relief by proving retaliation. But plaintiff in this case claimed she was fired for an *illegal* reason and therefore did not lose her right to claim FMLA interference.

***Vallejo v. DeJoy*, 2025 WL 473632 (D. Conn. Feb. 12, 2025)**

Plaintiff, a letter carrier, alleged that the US Postal Service interfered with his FMLA rights and retaliated against him after he sought FMLA leave. The district court granted summary judgment for defendant, finding no evidence that plaintiff had been denied any FMLA benefit and that plaintiff's supervisor approved both absences as FMLA. Plaintiff argued that the designation of his FMLA leave as leave without pay constituted interference, but the court rejected this theory because the FMLA does not entitle employees to paid leave and because plaintiff lacked sufficient accrued sick leave to cover the absences.

The court also rejected plaintiff's FMLA retaliation claim, concluding that he suffered no adverse employment action and could not establish a causal link between his protected activity and any adverse employment action. Plaintiff argued that defendant's actions of (1) placing him on a so-called "Deems Desirable" list which required him to provide medical documentation to support his absences and (2) calling him to a "pre-discipline" meeting to provide such documentation qualified as adverse actions. The court rejected plaintiff's argument because those actions did not rise to the required severity to constitute adverse employment action. Because the undisputed evidence demonstrated that defendant approved the leave at issue and took no action against Plaintiff due to his use of FMLA leave, the employer was entitled to judgment as a matter of law.

***Walls v. Lee Mem'l Health Sys.*, 2025 WL 254826 (M.D. Fla. Jan. 21, 2025)**

Plaintiff, a pediatric emergency physician, alleged a claim for FMLA retaliation after she was unable to return to work following more than six months of medical absence due to long-term effects of COVID-19. Although she sought additional leave and a transfer, the employer determined she could not perform the essential functions of her position with or without accommodation and had no identifiable return-to-work date. The U.S. District Court for the Middle District of Florida held that plaintiff failed to establish retaliation under the FMLA because she had exhausted her twelve weeks of FMLA leave and the FMLA does not require employers to grant indefinite leave. The district court further noted that absent additional evidence, the three month time period between the protected activity at issue and the adverse employment action was not sufficiently close in proximity to create a genuine issue of material fact on causation. The district court also found that a manager's statement that plaintiff had "taken too much time off" was a factually-based, attendance-related comment which was insufficient to establish a causal link between plaintiff's FMLA leave and her termination.

The district court emphasized that reinstatement rights apply only when an employee can return to work at the end of protected leave under the FMLA. Because Plaintiff could not resume her duties and could not identify a return date, her separation did not violate the FMLA. The

employer granted all of the FMLA benefits to which plaintiff was entitled. Therefore, the district court entered summary judgment on her FMLA retaliation claim.

***Wellman v. Amica Mut. Ins. Co.*, 2025 WL 2324932 (D.N.H. Aug. 12, 2025)**

Plaintiff alleged that she was constructively discharged under the FMLA, together with a state-law discrimination claim. Plaintiff suffered from severe flare-up of her major depressive disorder that required her to take an unexpected medical leave from work. After returning from a two-week medical leave, plaintiff's supervisor disciplined her because her usage of medical leave placed an undue burden on other employees. The supervisor also described her absences over thirty hours as unacceptable and warned her that she could be disciplined or fired if she took medical leave before her leave requests were officially approved. Plaintiff continued to contact defendant's benefits provider to ask that her leave be approved under the FMLA. Approximately two months after returning from leave, plaintiff's supervisors informed her that she would be discharged due to her medical leave absences unless her performance and attendance moving forward was perfect and issued her a written warning. Within a few days, plaintiff suffered a panic attack that required emergency medical treatment. The next day, defendant affirmed that the written warning had been issued because she had used over thirty hours of time off. Defendant also stated that the warning would be rescinded if enough of her hours of absences were subsequently approved as protected leave to bring her below the thirty hours, but that defendant had to address her dependability through their normal progressive discipline process. The following day, plaintiff submitted her resignation with thirty-days' notice, stating that she believed defendant had violated federal law, and that she was willing to comply with any investigations.

In its motion to dismiss under Fed. R. Civ. P. 12(b)(6), defendant argued that plaintiff could not establish constructive discharge because her resignation was to take effect after thirty days rather than immediately, the discipline could be rescinded if her FMLA leave was approved, and plaintiff was willing to participate in investigations. The district court disagreed and found that the timing and manner of resignation was not determinative, and that the central inquiry was whether the resignation was truly involuntary. The district court applied an objective reasonableness standard to find that plaintiff had included sufficient facts to plausibly show she felt she would be fired for taking any more protected leave and thus had no choice but to resign. Therefore, the court denied defendant's motion to dismiss.

***Williams v. Westchester Med. Ctr. Health Network*, 2025 WL 903757 (S.D.N.Y. Mar. 25, 2025)**

Pro se plaintiff brought a Third Amended Complaint alleging, *inter alia*, FMLA interference against Westchester Medical Center ("WCM") and several individual defendants employed by WCM. Defendants moved to dismiss, alleging he was not entitled to leave under the FMLA. Plaintiff successfully described and connected several doctor's visits in the month following the onset of his incapacity to the need for leave because each visit examined plaintiff for the same underlying issue of neck, back, and arm pain that resulted from a car accident. Thus, the court held that plaintiff sufficiently alleged that he was treated for the same condition two or

more times within the first thirty days of his incapacity and therefore, adequately alleged he suffered from a "serious health condition" within the meaning of the FMLA.

Next, defendants argue that plaintiff did not request FMLA leave at all. The Court reasoned that sufficient notice was provided to defendants based on plaintiff keeping his supervisors in the loop about the basis of his sick day usage and telling his supervisors that his persistent absences were the result of neck and back pain related to his injuries from his car accident. The Court found these allegations were sufficient to put defendants on notice that FMLA may reasonably apply to plaintiff's requests for leave.

Finally, the individual defendants argued that they cannot be held liable under the FMLA because they did not have the power to hire and fire plaintiff. The Court stated that an individual may be held liable under the FMLA only if he or she is an 'employer', which is defined as encompassing 'any person who acts directly or indirectly, in the interest of an employer to any of the employees of such employer'. In the Second Circuit, the economic reality test is applied to determine whether one is an 'employer' and control is a key factor. The Court held that plaintiff pled sufficient facts to suggest that one or more of the individual defendants had some control over plaintiff. Therefore, defendants' motion to dismiss was denied.

***Wilson v. CSX Transportation, Inc.*, 2025 WL 964568 (11th Cir. Mar. 31, 2025)**

Pro se plaintiff appealed the district court's grant of summary judgment in favor of defendant on his claims for FMLA interference and retaliation related to her demotion. The Eleventh Circuit affirmed the decision.

Plaintiff argued that the district court erred in granting summary judgment for CSX on FMLA interference because she was denied her 12 weeks of FMLA leave and was prejudiced by CSX's failure to notify her of her FMLA rights. She asserted that there was a genuine dispute of material facts over how her FMLA leave was calculated, arguing that after FMLA leave taken in 2019, she still had one week and three days of FMLA leave left, and that, as a result of the company's retroactive designation of prior leave as FMLA and its failure to notify her of that change, plaintiff could not calculate her remaining weeks under FMLA. The Court disagreed. While defendant did commit a technical violation by converting her prior leave to FMLA leave without notifying plaintiff first, the Court reasoned that technical FMLA violations are insufficient to show prejudice or harm and in this case, plaintiff was not harmed by these violations.

As it relates to plaintiff's retaliation claim, the Court found that, even if it is assumed that plaintiff made a prima facie case for FMLA retaliation related to her demotion, she did not meet her burden of showing that the reasons for defendant demoting her were pretextual. Plaintiff pointed to emails from defendant that alluded to the "disruption" her FMLA leave would cause, which the court found to be remarks insufficient to raise a genuine issue of dispute that defendant's proffered reasons were pretext or that, but for using her FMLA leave, she would not have been demoted. Specifically, plaintiff could not rebut that CSX held plaintiff's position open for her until she failed to return to work as scheduled and did not provide a timetable on when

she would return, and that her indefinite absence from a "mission critical" position, even after her scheduled return from FMLA was the reason for the demotion.

***Yates v. Nw. Barricade & Signs*, 2024 WL 4710746 (W.D. Wash. Nov. 7, 2024)**

In late 2021, plaintiff requested leave to care for her son after surgery and the leave was approved. Shortly thereafter defendants terminated her employment. Plaintiff sued alleging, *inter alia,* FMLA interference. The Court found that plaintiff failed to prove that her leave was causally related to the termination because plaintiff only pointed to temporal proximity between her leave usage and termination. In contrast, defendant proffered unrebutted direct evidence that plaintiff's termination resulted from the closure of several of defendants' work locations after its owner and founder died in December 2021. Defendants demonstrated that multiple employees were subsequently terminated as defendants required reorganization and restructuring to ensure viability under new leadership. The court granted defendants summary judgment on all claims.

Summarized elsewhere

***Blain v. Rausch Creek Generation LLC*, 2025 WL 2796767 (M.D. Pa. Sept. 29, 2025)**

***Boykins v. SEPTA*, 2025 WL 2777577 (E.D. Pa. Sept. 26, 2025)**

***Brown v. BNSF Railway Company*, 2025 WL 1756380 (N.D. Tex. Jun. 25, 2025)**

***Brown v. Chicago Transit Auth.*, 2025 WL 964540 (N.D. Ill. Mar. 31, 2025)**

***Canning v. Washington Cnty.*, 781 F. Supp. 3d 1103 (D. Or. 2025)**

***Clark v. Restaurant Growth Servs.*, 2025 WL 1463159 (M.D. Tenn. May 21, 2025)**

***Conklin v. ABEC, Inc.*, 2025 WL 1208904 (E.D. Pa. Apr. 25, 2025)**

***Cox v. Mignon Faget, Ltd.*, 2025 WL 1810160 (Ed. La. Jul. 1, 2025)**

***Dolch v. Sixth Jud. Cir.*, 2025 WL 1309512 (M.D. Fla. May 6, 2025)**

***Foren v. LBC Optics Inc.*, 2024 WL 4692149 (E.D. Wis. Nov. 6, 2024)**

***Futch v. Freedom Preparatory Academy, Inc.*, 2025 WL 1669358 (W.D. Tenn. Jun. 12, 2025)**

***Gabbard v. Butler Cnty, Ohio*, 2025 WL 874731 (S.D. Ohio Mar. 20, 2025)**

***Givens v. Massachusetts Institute of Technology*, 2025 WL 2645380 (D. Mass. Sept. 15, 2025)**

***Glasgow-McCall v. Harris County, et al.*, 2025 WL 2782330 (S.D. Texas Sept. 30, 2025)**

***Glymph v. CT Corporations Systems*, 2025 WL 267089 (W.D. Wash. Jan. 22, 2025)**

***Higgins v. United States Steel Corp.*, 2025 WL 1413847 (D. Minn. May 15, 2015)**

***Hogan v. Fidelity Brokerage Services*, LLC, 2025 WL 845785 (D.N.J. Mar. 17, 2025)**

***Hutchison v. Ranch & Home Supply, LLC*, 2025 WL 933808 (D. Colo. Mar. 27, 2025)**

***Kurtanidze v. Mizuho Bank, Ltd.*, 2025 WL 1898927 (S.D.N.Y. Jul. 9, 2025)**

***Lohmeier v. Gottlieb Memorial Hosp., et al.*,147 F.4th 817 (7th Cir. 2025)**

***Lucas v. Henry Ford Health Sys.*, 2025 WL 2777568 (E.D. Mich. Sept. 29, 2025)**

***Lundberg v. Delta Response Team, LLC*, 2025 WL 364452 (W. D. Va. Jan. 31, 2025)**

***Maldonado v. Harris County, Tex.*, 2025 WL 2443389 (S. D. Tex. Aug. 25, 2025)**

***McLaughlin v. Walmart*, 2024 WL 4948841 (3d Cir. 2024)**

***Mundt v. Aden*, 2024 WL 5182644 (N.D. Fla. Nov. 25, 2024)**

***Naranjo v. United Airlines, Inc.*, 2025 WL 2778504 (D.N.J. Sept. 30, 2025)**

***Puris v. TikTok, Inc.*, 2025 WL 343905 (S.D.N.Y. Jan. 30, 2025)**

***Ritchea v. National World War II Museum, Inc.*, 2025 WL 2841695 (E.D. La. Oct. 7, 2025)**

***Smith v. City of Warren, 2025* WL 679058 (W.D. Ark., Mar. 3, 2025)**

***Sutton v. Forrest County*, 2025 WL 3048237 (S.D. Miss. Oct. 31, 2025)**

***Thomas v. Amazon.com Services*, 2025 WL 2774123 (S.D. Tex. Sep. 28, 2025)**

***Thompson v. Harris Ctr. for Mental Health*, 2025 WL 1424149 (S.D. Tex. May 16, 2025)**

***Tumbleson v. Lakota Local School Dist.*, 2025 WL 1797094 (S.D. Ohio Jun. 30, 2025)**

***Williams v. UAB Hosp. Mgmt., LLC*, 2025 WL 2810010 (N.D. Ala. Sept. 30, 2025)**

B. Other Claims

***Hossain v. Boeing Co.*, 2025 WL 242246 (N.D. Tex. Jan. 17, 2025)**

Plaintiff, a former supply chain specialist with Boeing, brought suit against his employer for FMLA retaliation, among other claims.

Plaintiff was put on a 60-day Performance Improvement Plan (PIP) in October 2022. In November 2022, he requested PTO from his team lead after undergoing surgery. His supervisor reprimanded him for not communicating this need directly to him and asked him for a doctor's

note. After this, plaintiff filed an HR complaint alleging inappropriate behavior from his supervisor regarding his medical leave. Before HR finished processing this complaint, plaintiff's supervisor began the process to terminate him for failing to improve as outlined in his PIP.

Plaintiff requested FMLA leave in January 2023, and plaintiff's supervisor immediately paused his impending termination. His supervisor made direct, sarcastic comments to plaintiff about his FMLA leave and was very hostile towards the idea of it.

On these facts, the court denied defendant's motion for summary judgment, finding that genuine issues of material fact exist such that a reasonable jury might return a verdict in favor of either party on plaintiff's FMLA retaliation claim.

Summarized elsewhere

***Dolch v. Sixth Jud. Cir.*, 2025 WL 1309512 (M.D. Fla. May 6, 2025)**

1. Discrimination Based on Opposition

2. Discrimination Based on Participation

Summarized elsewhere

Banks v. Market Source, Inc., 2025 WL 1836599 (11th Cir. Jul. 3, 2025)

***Beal v. Chicago Transit Authority*, 2025 WL 217326 (N.D. Ill. Jul. 31, 2025)**

***Ramkissoon v. Farmington Care Ctr., LLC*, 2025 WL 1742968, (Conn. Super. Ct. Jun. 16, 2025)**

***West v. BNSF Ry. Co.*, 2024 WL 4652206 (E.D. Wash. Nov. 1, 2024)**

III. Analytical Frameworks

Summarized elsewhere

***Teal v. Georgia-Pacific Wood Products, LLC*, 757 F. Supp. 3d 709 (E.D. Tex. 2024)**

A. Substantive Rights Cases

***Lucas v. Henry Ford Health Sys.*, 2025 WL 2777568 (E.D. Mich. Sept. 29, 2025)**

Plaintiff sued her former employer, a Michigan health provider, for FMLA interference and retaliation, after her termination in 2022. Beginning in 2020, plaintiff expressed interest in advancing to a supervisory role which had recently been vacated. Defendant then eliminated the vacant supervisory role, replacing it with a different title that plaintiff believed was an attempt to prevent her from advancing. Plaintiff then complained to human resources, alleging discrimination on the basis of age and race. Defendant conducted an internal investigation, purporting to find no evidence of unlawful employment practices. The next year, in 2021,

plaintiff was promoted to a supervisor position at another of defendant's locations. Several months later, plaintiff was terminated from her new position for poor performance, pursuant to defendant's policy for new hires still in their "introductory period." But only days later, defendant rescinded the termination, realizing that plaintiff, as a transfer, should not have been subject to the policy meant for new hires. Shortly after her reinstatement, plaintiff took medical leave for mental health issues related to returning to work. After applying for leave through a third-party administrator, plaintiff received a letter stating she was ineligible for FMLA leave because she had not been employed for at least 12 months of continual service, but that she could apply for short-term disability leave, which she did. After reaching the conclusion of her disability leave, plaintiff did not return to work, and defendant terminated her pursuant to its leave policy.

Plaintiff then filed suit in a Michigan district court, asserting, *inter alia*, claims of interference and retaliation under the FMLA. Defendant moved for summary judgment, which the district court granted. Regarding the FMLA interference claim, the court reasoned that plaintiff had not actually been denied any benefits or rights to which she was entitled under the FMLA. Although plaintiff was informed incorrectly that she was ineligible for FMLA leave, she was afforded disability leave of an even longer duration than the FMLA leave to which she was entitled. The court also noted that plaintiff had not demonstrated she could have returned to work at the conclusion of her leave. Regarding the FMLA retaliation claim, the district court noted that plaintiff had not actually argued in her response brief that she was retaliated against because of her FMLA activity, instead focusing on her prior complaints of discrimination on the basis of age and race.

***Lundberg v. Delta Response Team, LLC*, 2025 WL 364452 (W.D. Va. Jan. 31, 2025)**

Plaintiff sued defendant for FMLA interference among other claims. Plaintiff alleged that defendant interfered with her FMLA rights when it failed to provide her with a notice of eligibility for FMLA or designation notice when she informed her management that she was suffering from specific health conditions. Defendant argued that plaintiff had not demonstrated she was entitled to FMLA leave because she did not show that she had a serious health condition.

The court stated that if an employee inquired into leave options, the employee could survive summary judgment if the employer failed to inquire about whether the employee was requesting FMLA leave. However, in the present case, the court found that the employee was not prejudiced by the employer's failure to comply with the FMLA notice requirements because plaintiff was unable to return to work until after the FMLA leave period expired. Because plaintiff was unable to return to work until nearly a year after her FMLA leave period expired, the court found that no reasonable jury could find that plaintiff was prejudiced by defendant's failure to notify her of her FMLA rights. Therefore, the court granted summary judgment to defendant.

Summarized elsewhere

***Owens v. Univ. of N. Carolina at Pembroke*, 2025 WL 242530 (E.D.N.C. Jan. 17, 2025)**

1. General

2. No Greater Rights Cases

B. Proscriptive Rights Cases

Summarized elsewhere

***Myers v. Sunman-Dearborn Cmty. Sch.*, 142 F.4th 527 (7th Cir. 2025)**

IV. Application of Traditional Discrimination Framework

***Anderson v. Huffman*, 2025 WL 948494 (M.D. Fla. Mar. 28, 2025)**

A city clerk brought suit for retaliation and interference under the FMLA. Plaintiff was diagnosed with anxiety, depression, and insomnia, and took FMLA leave after being publicly humiliated by comments about her promiscuity. At the summary judgment stage, the court held that plaintiff had produced enough circumstantial evidence to create a genuine issue of fact on both the retaliation and interference claim, and the case would proceed to trial.

Plaintiff established a prima facie case of retaliation by providing evidence that immediately after plaintiff requested FMLA leave, defendant asked if plaintiff could be fired while on leave. Plaintiff was ultimately fired the day she returned from FMLA leave, and the board who fired her contemplated using tardy FMLA paperwork as a reason to fire her. Defendant provided a non-discriminatory reason for firing plaintiff: her backlog of incomplete tasks jeopardized defendant's compliance with Florida law. Plaintiff then provided sufficient evidence that defendant's non-discriminatory reason was pretextual—citing that defendant knew about the backlog of tasks prior to plaintiff taking FMLA leave, and that compliance with Florida law was never cited by board members when terminating plaintiff.

On the interference claim, plaintiff established enough evidence to support that she was penalized for taking FMLA leave. Defendant argued that plaintiff was fired for poor performance, more specifically, a backlog of incomplete required tasks that were discovered while plaintiff was on FMLA leave. Plaintiff established evidence that defendant knew about the backlog of tasks prior to plaintiff taking FMLA leave, and that defendant expected the backlog to be fixed while plaintiff was on FMLA leave.

***Collins v. City of Lowell*, 2025 WL 1265865 (W.D. Ark., May 1, 2025)**

Plaintiff alleged his municipal employer terminated him rather than meet its FMLA obligations. On November 20, 2023, plaintiff emailed his supervisor and HR stating that "in the next couple of months" he would need to receive treatment for a recurrence of cancer and that when he went through a similar treatment before, he did not miss much time. An HR representative emailed plaintiff FMLA paperwork and stated this is an FMLA qualifying event. Defendant terminated plaintiff 14 days later. Defendant argued summary judgment was appropriate because plaintiff failed to provide proper notice of his need for FMLA benefits and his firing was for legitimate reasons.

The district court denied defendant's motion. The court reasoned that plaintiff provided enough notice even though he did not explicitly state he needed FMLA leave, which was made obvious by defendant's HR response acknowledging it was an FMLA event. Evidence that the

decision-maker was told of the need for medical leave existed. The court further reasoned that plaintiff could establish a *prima facie* case of FMLA discrimination, retaliation, and/or interference because he was terminated within two weeks of his protected activity, which was "barely" sufficient on its own. Plaintiff could also establish pretext at trial because defendant offered shifting explanations for his termination (e.g. insubordination, job performance despite a rating that exceeded expectations, and failure to conduct an investigation required for the given reasons).

***Walker v. Se. Pennsylvania Transportation Auth.*, 2025 WL 1879521 (3d Cir. Jul. 8, 2025)**

Plaintiff, a bus operator living with sickle cell anemia, was subject to a last-chance agreement requiring termination if he accrued twenty attendance points. After experiencing severe pain, he called dispatch on June 7, 2021 and requested "Emergency at Home" day, which under the employer's disciplinary policies, did not accrue attendance points. The dispatcher recorded the reason for the absence as "NO_BABYSITTER," but Plaintiff testified that he also stated he needed to go to the hospital. Plaintiff submitted an FMLA request hours later, and SEPTA ultimately approved his leave for that day. Thereafter, the employer informed plaintiff that he was subject to discipline due to his absences, and plaintiff was ultimately discharged.

The Third Circuit held that the district court's grant of summary judgment for defendant on plaintiff's interference and retaliation claims was inappropriate because factual disputes existed as to whether plaintiff gave sufficient notice of a potentially FMLA-qualifying absence. The court emphasized that an employee need not expressly reference the FMLA; it is enough to provide information that the leave may be protected. The court further held that employers may not assess attendance points to absences later deemed FMLA-protected. Because SEPTA both approved the leave and counted the absence under its no-fault attendance policy, a reasonable jury could find interference and retaliation. The court vacated and remanded.

***Ward v. Wesley Med. Ctr., LLC*, 2025 WL 1445863 (D. Kan. May 20, 2025)**

Plaintiff, a maintenance mechanic, took FMLA leave for anxiety, which his provider certified and was approved by the employer from April 12, 2021 through April 20, 2021, and then extended May 2, 2021 by plaintiff's medical provider. Plaintiff's medical provider stated plaintiff could return to work on May 3, 2021 but plaintiff did not do so. The employer's third-party leave administrator approved additional leave, and Plaintiff ultimately used more than twelve weeks of FMLA leave before ceasing communication with Human Resources. Plaintiff's protected leave expired July 5, 2021, and he did not return to work or obtain further approved leave. Plaintiff was fired for job abandonment. Plaintiff asserted FMLA "enforcement" and retaliation claims, arguing he was penalized for using leave and terminated because he used FMLA leave.

The U.S. District Court for the District of Kansas held that plaintiff's "enforcement" theory was duplicative of retaliation and, to the extent construed as interference, failed because plaintiff admitted he received all FMLA leave he requested. On retaliation, the court found no causal connection between Plaintiff's protected activity and his discharge. Rather, the district court found that plaintiff was terminated only after exhausting leave and remaining absent

without approved time, which constituted job abandonment. Temporal proximity alone was insufficient to overcome the intervening circumstances, and the employer articulated a legitimate, non-retaliatory reason for discharge. The court granted summary judgment for the employer. Appeal is pending at the Tenth Circuit.

***Young v. Monroe Cnty.*, 2025 WL 1640857 (W.D. Wis. Jun. 10, 2025)**

Plaintiff worked as a 911 dispatcher for many years, using FMLA leave nearly every year because of her role as primary caregiver for a child with epilepsy. After being discharged, she sued under numerous statutes, including allegations of FMLA interference and retaliation.

When plaintiff was discharged, she had not yet accumulated sufficient hours to qualify for FMLA leave. Thus, the court granted summary judgment as to the interference claim. For the retaliation claim, however, the court found that plaintiff could still establish FMLA retaliation even though she did not qualify for FMLA leave by showing her protected conduct was a substantial or motivating factor in the decision to discharge her. While plaintiff could not establish temporal proximity, the decision-maker's statements and attitude about plaintiff's use of FMLA in the past could support the inference that he held plaintiff's past use of FMLA leave against her. Thus, the court denied summary judgment on the FMLA retaliation claim.

Summarized elsewhere

***Reid v. Wrought Washer Mfg., Inc.*, 2024 WL 4708037 (E.D. Wis. Nov. 7, 2024)**

A. Direct Evidence

Summarized elsewhere

***Dubey v. Concentric Healthcare Sols. LLC*, 2025 WL 2480927 (D. Ariz. Aug. 28, 2025)**

***Han v. Temple Univ.*, 2025 WL 2804546 (E.D. Pa. Oct. 21, 2025)**

***Hankins v. Lowe's Home Ctrs., LLC*, 2025 WL 2987012 (N.D. Ill. Oct. 23, 2025)**

***Mitchell v. Madison Dist. Pub. Schs.*, 2024 WL 101579 (M.D. Fla. Jan. 15, 2025)**

***Reid v. Wrought Washer Mfg., Inc.*, 2024 WL 4708037 (E.D. Wis. Nov. 7, 2024)**

B. Application of McDonnell Douglas to FMLA Claims

***Bomar v. Bd. of Educ. of Harford Cnty.*, 2024 WL 5170130 (D. Md. Dec. 19, 2024)**

Four school district employees sued alleging discrimination and retaliation claims, including FMLA retaliation for two plaintiffs, after a district-wide reassignment process and demotions. The district implemented a 2019 restructuring that reallocated testing and administrative duties; plaintiffs had previously taken protected leave but remained employed at the same pay grade during the reassignments. The U.S. District Court for the District of

Maryland granted summary judgment to the employer; later, the court denied plaintiffs' Rule 59(e) motion to alter or amend that judgment, leaving the prior FMLA rulings intact.

The court held that one plaintiff's reassignment from a test coordinator role was not an adverse employment action and, as to both plaintiffs, that the employer's non-retaliatory reasons for demotion and/or non-selection were not pretextual under McDonnell Douglas. The court emphasized that the duties, pay, and benefits remained materially equivalent and that the timing of the reassignments did not support a causal inference tied to protected leave. The record did not establish that protected FMLA activity caused the challenged decisions, and the employer's documented justification for its 2019 reassignment process controlled. Appeal is pending at the Fourth Circuit

***Brennan v. Five Below, Inc.*, 2025 WL 817597 (E.D. Pa. Mar. 13, 2025)**

Plaintiff, a buyer for a retail store, sued her employer, including for retaliation in violation of the FMLA. Plaintiff told her colleagues she was pregnant in December 2019. Fifteen days before she gave birth, plaintiff was told she was terminated due to a reorganization of her department, but plaintiff was the only one fired during the reorganization. Defendant claims that plaintiff was performing poorly in her role, although this was never communicated to plaintiff. When the decision-maker in plaintiff's termination was asked if plaintiff's pregnancy impacted her decision to terminate plaintiff, the decision-maker responded, "It might have." Defendant moved for summary judgment on all claims, which the district court for the Eastern District of Pennsylvania denied in its entirety.

Using the McDonnell Douglas burden-shifting framework, the court concluded that plaintiff showed a genuine dispute of fact as to whether her termination resulted from her planned FMLA leave. Defendant argued plaintiff could not prove causation between her termination and her FMLA leave. The court disagreed. Even though there was a lack of temporal proximity between plaintiff's pregnancy announcement and her termination, she was fired fifteen days before her FMLA leave was to begin, which constituted an "unusually suggestive" temporal proximity. Further, the proffered reasons for plaintiff's termination were questionable. Plaintiff was allegedly terminated in order to cut costs during a reorganization and due to poor performance, but Plaintiff was the only employee terminated, and the employee who filled her position was paid a 20% higher salary. Plaintiff also showed evidence that she had never been informed of her alleged poor performance prior to her termination and had been given generally good reviews. Coupled with the fact plaintiff was terminated just a few weeks before her FMLA leave was to begin, the court found plaintiff presented enough evidence to show pretext.

***Clark v. Restaurant Growth Servs.*, 2025 WL 1463159 (M.D. Tenn. May 21, 2025)**

Plaintiff restaurant service manager, who reported to the general manager of the restaurant, took bereavement leave after both her father and husband died within a short timeframe. After returning to work, defendant noted her previously favorable performance fell off, and she was placed on a PIP one day before starting her second FMLA leave related to torn rotator cuff surgery. While on leave, defendant closed two restaurants and put her former supervisor in her position. When plaintiff attempted to return to work, the new general manager turned her away and instructed her to wait for a call. Since there were no open management

positions in the area, defendant terminated her employment, which defendant characterized as a workforce reduction. Of the 14 affected managers, 11 were retained and three, including two on FMLA leave, were offered severance.

After plaintiff filed suit, defendant moved for summary judgment, which was denied as to both the FMLA retaliation and interference claims. The court found the temporal proximity between the second FMLA leave and PIP were close enough to support an inference of retaliation, but that genuine disputes of fact existed on retaliation, including that the other manager on FMLA leave was not terminated. On interference, the court found material issues of fact existed as to why defendant terminated plaintiff, ie., whether it was based on her second FMLA leave, and thus denied summary judgment.

***Cooper v. Airbus Americas, Inc.*, 2025 WL 321545 (S.D. Ala. Jan. 28, 2025)**

Plaintiff Keith Cooper, proceeding *pro se*, alleged his employer defendant Airbus Americas, Inc. terminated his employment in retaliation for asserting rights under the FMLA, among other discrimination and retaliation claims.

Plaintiff worked as mechanical engineer ("ME") for defendant after working for defendant as a corrosion specialist for about two years. After three months in the ME job, Plaintiff met with his trainer to assess his progress. Defendant's trainer raised alleged deficiencies and plaintiff engaged with human resources in the weeks following the meeting about his own issues with defendant's training. Defendant assigned plaintiff a different trainer. After about four months as an ME, plaintiff took FMLA leave based on his mental health. The next month, plaintiff took another mental health FMLA leave shortly after receiving more negative feedback about his training progress. During the second FMLA leave, which concluded July 28, 2021, defendant put plaintiff on a performance improvement plan ("PIP"). After returning from leave, defendant met with plaintiff and provided feedback on how to improve during the pendency of the PIP. Defendant terminated plaintiff on September 10, 2021 because plaintiff had not made sufficient progress on his PIP.

The Court found that plaintiff had no direct evidence of retaliatory animus and so applied the *McDonnell Douglas* burden shifting framework. The Court found plaintiff's circumstantial evidence that defendant adopted the PIP during an FMLA leave was not sufficient because defendant granted all the FMLA leave plaintiff requested and articulated legitimate deficiencies in plaintiff's job performance. The Court noted that a one-month period between plaintiff's last FMLA leave and his termination was not evidence of retaliatory animus. The Court granted defendant's motion for summary judgment and dismissed plaintiff's case. Appeal is pending at the Eleventh Circuit.

***Divkovic v. Hershey Co.*, 2025 WL 887770 (M.D. Pa. Mar. 21, 2025)**

Plaintiff and his wife both worked for Hershey. Plaintiff requested FMLA leave related to his wife's IVF treatments, providing a certification from his doctor indicating that he would use the leave to drive his wife to doctor's appointments for IVF treatments. However, Plaintiff occasionally took leave while his wife was at work, leading his employer to suspect FMLA

abuse. Plaintiff thought his leave covered more than just driving his wife to appointments and claimed he prepared IVF injections at home to take to his wife at work. The employer investigated this suspected FMLA abuse and disciplined Plaintiff before ultimately terminating his employment. Plaintiff brought suit, alleging, among other things, FMLA interference and retaliation.

Applying the *McDonnell Douglas* framework to Plaintiff's FMLA retaliation claim, the court found that he successfully established a prima facie case of FMLA retaliation because his request for FMLA leave appeared causally related to his termination. The court rejected the idea that a history of favorable FMLA treatment proves the termination was not in retaliation for an FMLA request. In the second step of the *McDonnell Douglas* analysis, the court found that an honest belief that an employee used his leave for a reason other than its intended purpose is a legitimate, non-discriminatory reason for an adverse employment action. In the final step of the *McDonnell Douglas* analysis, the court found that the employer's legitimate nondiscriminatory reason withstood scrutiny because the employer had no duty to ask Plaintiff to clarify his medical certification and had no duty to engage in a more detailed investigation. Because Plaintiff had failed to show discriminatory reasons or retaliatory animus behind the termination, the employer was granted judgment on the FMLA retaliation claim regarding the IVF treatments.

Plaintiff also brought an FMLA claim for retaliation regarding his own disabilities, which included gout flare-ups, anxiety, and depression. Plaintiff's own FMLA leave certification expired four to five months before he obtained certification for the leave regarding the IVF treatments. Plaintiff alleged that Hershey terminated him shortly after he expressed an intention to recertify his FMLA leave. However, the court found that the evidence did not show Plaintiff invoked a right to FMLA-qualifying leave. Additionally, the court held that a subjective belief of retaliation is not enough to establish a prima facie case of retaliation.

Plaintiff further alleged that his employer interfered with his FMLA leave by discouraging him from using FMLA and terminating him after he sought to assist his and his wife's medical conditions. His employer argued that the claim was redundant to the retaliation claim. While the court rejected this proposition, they still granted judgment in favor of the employer. Hershey had granted all of Plaintiff's requests for FMLA leave, and Plaintiff was discharged only after Hershey had an honest belief that he was misusing his leave.

***Han v. Temple Univ.*, 2025 WL 2804546 (E.D. Pa. Oct. 21, 2025)**

Plaintiff, a tenure-track assistant professor at defendant university beginning in 2012, alleged defendant denied him tenure in 2022 in violation of several anti-discrimination statutes, including retaliation and interference under the FMLA. Plaintiff requested and was granted leave under the FMLA in 2015 for the birth of his child and again in 2016 for his own illness. He first applied for tenure in the 2019-20 academic year and was denied for lack of professional publications. In denying that application, defendant noted plaintiff's two leaves under the FMLA to calculate his tenure as six years, instead of eight years that would have accrued if his FMLA leave was included. Plaintiff again applied for tenure in the 2021-22 academic year. Though he did not publish any papers between his first application and his second application, he did note

that he had a paper under review that was likely to be published. Again, his application was denied as defendant found not enough had changed between the two applications and there were not enough mitigating factors, such as external funding awards, to offset the lack of published articles at high level publications.

The court applied the *McDonnell Douglas* burden-shifting framework to plaintiff's FMLA retaliation claim and found that plaintiff failed to establish the necessary causal connection between his protected activity of taking leave and the adverse action of his denial of tenure. The court found that because five years had passed between plaintiff's FMLA leave and his tenure denial, a causal connection could not be established by proximity. Further, plaintiff provided no evidence that defendant "engaged in a pattern of antagonism in the intervening period." Because plaintiff did not allege discrimination in his FMLA interference claim, the court looked for direct evidence rather than applying the *McDonnell Douglas* framework. The court found plaintiff was unable to prove the fourth and fifth elements of his claim: there was no evidence to suggest plaintiff notified defendant that he intended to take FMLA leave a third time, and likewise, no evidence that plaintiff had ever requested FMLA leave and been denied. The district court granted defendant's motion for summary judgment on all claims. Appeal is pending at the Third Circuit.

***Higgins v. United States Steel Corp*., 2025 WL 1413847 (D. Minn. May 15, 2015)**

Plaintiff worked for defendant United States Steel Corporation as a mechanic. Defendant required its employees to provide at least twenty minutes notice before the start of their shifts regarding any tardiness or absence from work. Between 2017 and 2022, plaintiff requested and was granted intermittent FMLA leave. However, plaintiff still was required to follow the Absenteeism Policy and was disciplined multiple times for failing to do so. In September 2022, plaintiff was notified that he had exhausted his FMLA leave. Plaintiff continued to violate the Absenteeism Policy and was eventually terminated in April 2023. Plaintiff brought suit alleging both interference and retaliation claims under the FLSA.

On the interference claim, the district court in Minnesota ruled for defendant on summary judgment, finding that there was no evidence that plaintiff was denied any rightful FMLA leave, or that defendant's actions in tracking and reporting his FMLA leave did not result in any harm to him. On the retaliation claim, the court found that although there was temporal proximity between plaintiff's termination in April 2023 and a new request for FMLA leave in March 2023, that was not enough to survive summary judgment. Particularly because defendant had approved plaintiff's FMLA leave from 2017 until 2023 and did not interfere with plaintiff's use of such leave. And, nevertheless, defendant had a legitimate, nondiscriminatory reason for terminating plaintiff—plaintiffs' repeated violations of the Absenteeism Policy.

Summarized elsewhere

Ahmann v. Blattner Holding Company, LLC, 2025 WL 776312 (D. Minn. Mar. 11, 2025)

***Boykins v. SEPTA*, 2025 WL 2777577 (E.D. Pa. Sept. 26, 2025)**

***Brown v. BNSF Railway Company*, 2025 WL 1756380 (N.D. Tex. Jun. 25, 2025)**

***Bunnell v. William Beaumont Hosp.*, 2025 WL 2549224 (6th Cir. Sept. 4, 2025)**

***Chapman v. Brentlinger Enterprises*, 124 F.4th 382 (6th Cir. 2024)**

***Clark v. Geisinger Health System*, 2025 WL 1839498 (M.D. Pa. Jul. 3, 2025)**

***Collins v. City of Lowell*, 2025 WL 1265865 (W.D. Ark., May 1, 2025)**

***Fisher v. Boeing Co.*, 2025 WL 888491 (E.D. Pa. Mar. 21, 2025)**

***Kendrick v. Zwicker & Associates, P.C.*, 2025 WL 2793751 (D. Mass. Sept. 30, 2025)**

***Kent v. Garden City of Georgia*, 2025 WL 588999 (S.D. Ga. Feb. 24, 2025)**

***Mitchell v. Madison Dist. Pub. Schs.*, 2024 WL 101579 (M.D. Fla. Jan. 15, 2025)**

***Reid v. Wrought Washer Mfg., Inc.*, 2024 WL 4708037 (E.D. Wis. Nov. 7, 2024)**

***Watkins v. Mack Trucks, Inc.*, 2025 WL 2086107 (E.D. Pa. Jul. 24, 2025)**

1. Prima Facie Case

***Collins v. City of Lowell*, 2025 WL 1710035 (W.D. Ark., Jun. 18, 2025)**

In a previous decision, the district court denied defendant's summary judgment motion regarding plaintiff's FMLA retaliation claims. The court further denied defendant's motion for reconsideration because, contrary to defendant's argument, there was a material dispute over whether the termination decision maker was aware of plaintiff's request for future medical leave.

***Hyde v. NSM Insurance Group*, 2025 WL 785857 (D.N.D. Ohio Mar. 12, 2025)**

Plaintiff was an underwriter for defendant. Plaintiff advised his supervisor of a need for absences on two dates to care for his father, who was scheduled for surgery. The supervisor never confirmed that the leave would be covered by the FMLA or otherwise. The following month, plaintiff advised the supervisor that his father had returned to the hospital and that he needed two more days off. Again, the supervisor did not confirm that the leave would be covered as FMLA leave or another type of leave.

Plaintiff learned about his rights on his own by reviewing the company's handbook. He contacted the Human Resources department to ask about taking FMLA intermittent unpaid leave to care for his father. Plaintiff advised HR that he was out of paid-time-off leave for the year. An HR rep provided plaintiff the information and forms needed to apply for FMLA leave. Plaintiff applied for intermittent leave for a period of about three months. Thereafter, a series of delays with the physician for plaintiff's father caused plaintiff to miss deadlines associated with submitting paperwork for his FMLA application. Defendant fired plaintiff.

Plaintiff sued alleging FMLA interference and retaliation. At summary judgment, the court found that plaintiff failed to provide a sufficient medical certification even though he had an opportunity to do so and granted summary judgment for defendant on the interference claim.

On his retaliation claim, the court found that plaintiff could not show that he was engaged in statutorily protected activity, which is an element of a retaliation claim. In the course of making that finding, the court described two distinct categories of FMLA retaliation claims that have arisen in the Sixth Circuit: 1) the employee begins the FMLA application process but has not taken leave; 2) the employee begins and does not complete the FMLA application process and takes unapproved leave that is not protected by the FMLA. The undisputed record revealed that plaintiff took intermittent, unapproved leave. This put plaintiffs' retaliation claim in the second category of retaliation claimants, for whom entitlement to leave is a prerequisite to showing he engaged in protected activity. Because he could not prove he engaged in protected activity, his FMLA retaliation claim failed.

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

Plaintiff, a clinical care coordinator, sued Public Health Trust of Miami-Dade County, a collection of hospitals and clinics. Plaintiff brought claims of interference and retaliation under the FMLA, among other claims. Defendant required employees to initiate new FMLA leave requests by calling a third-party provider, who would then process the requests. Intermittent use of FMLA leave similarly required contacting both the third-party provider and the employee's manager, who also handled all non-FMLA time-off requests. Plaintiff had previously and successfully applied for intermittent FMLA leave. In doing so, plaintiff alleged the manager critiqued plaintiff taking leave and that other employees were preferentially allowed to take more non-FMLA time-off. During this period, plaintiff was also directed to take a fitness for duty exam after plaintiff made a series of remarks about being unable to handle job stress. Plaintiff was cleared for duty. Thereafter, plaintiff also alleged being denied time-off after one of plaintiff's eye surgeries. Defendant, however, disputed that any properly submitted FMLA request had been denied. Plaintiff eventually resigned and filed suit.

Plaintiff argued defendant retaliated against plaintiff's exercise of FMLA rights by arbitrarily denying time-off, requiring plaintiff to submit to a fitness for duty exam, and constructively discharging plaintiff. Plaintiff further alleged that fear of the manager also interfered with plaintiff's use of FMLA leave. Defendant moved for summary judgment. Applying the *McDonnell Douglas* framework, the District Court for the Southern District of Florida held there was no evidence in the record to demonstrate an adverse employment action, retaliatory motive, or discriminatory animus due to the exercise of FMLA rights. The court noted that showing close temporal proximity can satisfy causation, but "mere temporal proximity, without more, must be very close." Based on the record, no reasonable jury could conclude a *prima facie* case of FMLA retaliation existed.

The court, however, did not grant summary judgment on plaintiff's FMLA interference claim. The court noted that discouraging an employee from taking leave—irrespective of the employer's motive—could be sufficient to establish interference. Although plaintiff's deposition included inconsistent statements, these inconsistencies were a matter of credibility to be

determined by the jury. Further, the court noted there remained a genuine dispute of material fact as to whether defendant or the third-party administrator was responsible for any purported FMLA denials.

***Mahran v. County of Cook Illinois*, 2025 WL 3004600 (N.D. Ill. Oct. 27, 2025)**

Plaintiff, an inpatient pharmacist, alleged that defendant interfered with his FMLA rights and retaliated against him for exercising those rights. The district court in Illinois granted summary judgment for defendant on both FMLA theories, noting the record showed that plaintiff requested and received FMLA leave in 2020 and admitted he was never denied FMLA benefits, disciplined for using FMLA leave, or even discouraged from taking FMLA leave. The court held plaintiff's interference claim failed because he could not establish that any FMLA benefits were withheld. Plaintiff's retaliation claim also failed under both the *McDonnell Douglas* framework and the Seventh Circuit's approach in *Ortiz*—which looks at whether the totality of the evidence shows discrimination—as defendant presented no evidence linking his termination to FMLA use; instead, the undisputed evidence showed he was terminated for falsifying his job application and attempting to mislead an internal investigation. Appeal is pending at the Seventh Circuit.

Summarized elsewhere

***Caruso v. City of Hartford*, 2025 WL 2701909 (D. Conn. Sept. 23, 2025)**

***Conner v. Stark & Stark, P.C.*, 2025 WL 1694052 (D.N.J., Jun. 17, 2025)**

***Divkovic v. Hershey Co.*, 2025 WL 887770 (M.D. Pa. Mar. 21, 2025)**

***Futch v. Freedom Preparatory Academy, Inc.*, 2025 WL 1669358 (W.D. Tenn. Jun. 12, 2025)**

***Holland v. Texas Christian Univ.*, 2025 WL 1002434 (N.D. Tex. Apr. 3, 2025)**

***Murphy v. Roundy's Inc.*, 2025 WL 1273405 (E.D. Wis. Apr. 2, 2025)**

***Nixon-Jones v. The Corp. of Mercer Univ.*, 2025 WL 1710053 (M.D. Ga. Jun. 18, 2025)**

***Odunze v. Methodist Hosp.*, 2025 WL 2423658 (S.D. Tex. Aug. 21, 2025)**

***Tatum v. 10 Roads Express, LLC, et al.*, 760 F. Supp. 3d 615 (N.D. Ill. 2024)**

a. Exercise of Protected Right

***Conklin v. ABEC, Inc.*, 2025 WL 1208904 (E.D. Pa. Apr. 25, 2025)**

Plaintiff, a global logistics manager alleged FMLA interference and retaliation. Plaintiff requested intermittent FMLA leave, received the requisite certification paperwork from defendant, and returned the certification paperwork, but plaintiff never requested to use any FMLA leave. Plaintiff was later terminated by her direct supervisor and the Chief Operating Officer ("COO") for failing to meet expectations related to her work duties.

Following discovery, defendant moved for summary judgment asserting that plaintiff provided no evidence to support her claims. The court applied the *McDonnell-Douglas* burden-shifting framework, determining plaintiff failed to provide evidence sufficient to create a genuine issue of material fact for both her interference claim and retaliation claim.

Because plaintiff never actually requested to use FMLA leave, the court determined defendant could not have denied or interfered with her right to take leave. Similarly, plaintiff's retaliation claim failed because plaintiff presented no evidence that the person responsible for making the decision regarding her termination knew of her FMLA qualification, making it impossible for plaintiff to have been fired because of her FMLA status. Plaintiff argued that the decision maker had constructive knowledge of her status. The court acknowledged that there may be good policy reasons for recognizing constructive knowledge as sufficient for FMLA retaliation cases, but ultimately determined that approach is disfavored among courts. Temporal proximity alone was not enough to establish knowledge. Finally, plaintiff's supervisor and COO provided clear non-discriminatory reasons for plaintiff's termination.

***Davenport v. Zachary Manor*, 2025 WL 2825606 (M.D. La. Sept. 17, 2025)**

The district court affirmed the dismissal of the pro se plaintiff's FMLA interference and retaliation claims where plaintiff failed to prove that her mother suffered from a serious health condition and failed to return to work following the denial of her self-quarantine request due to possible COVID-19 exposure which could potentially expose her mother. She was terminated under the company's no call no show policy. Thus, she was not engaged in a protected activity, the first necessary element of her FMLA retaliation claim.

***Dubey v. Concentric Healthcare Sols. LLC*, 2025 WL 896507 (D. Ariz. Mar. 24, 2025)**

Plaintiff sued her former employer asserting eight claims, including FMLA interference and retaliation. Defendant moved for summary judgment on six of the eight claims, including the FMLA retaliation claim.

Defendant argued that plaintiff's retaliation claim was improperly characterized, as it alleged FMLA interference. To establish a retaliation claim, a plaintiff must show that they either opposed a practice made unlawful by the FMLA or "instituted or participated in FMLA proceedings." Here, the court found that plaintiff did neither. She only alleged that she suffered adverse consequences as a result of taking FMLA leave. Accordingly, the court granted summary judgment in favor of defendant on the FMLA retaliation claim.

***Simpson v. CSL Plasma*, 2025 WL 1167565 (S.D. Ala. Apr. 22, 2025)**

Plaintiff, a phlebotomist, sued her employer, a plasma collection facility, in the District Court for the Southern District of Alabama for, *inter alia*, FMLA interference and retaliation. Defendant moved for summary judgment on all claims, which the court denied.

In February 2023, plaintiff informed her direct supervisor that she was pregnant and inquired about leave. The supervisor told plaintiff it was too early to discuss leave. Plaintiff claimed her supervisor was annoyed with plaintiff's pregnancy accommodations, such as

needing to leave heavy boxes on the floor and sitting while on the donor floor. The supervisor created a new rule that no employee was to sit on the donor floor, seemingly directed at plaintiff since she was the only employee who regularly needed to sit and take breaks.

Additionally, plaintiff and another employee witnessed a third employee making threats over the phone in the facility parking lot. The employee with plaintiff asked plaintiff to record the third employee, and plaintiff refused. The other employee then recorded the conversation herself. Plaintiff's supervisor was informed of the recording and ultimately terminated plaintiff for violating the recording policy, without confirming who made the recording. The employee who actually recorded the conversation was never disciplined.

Plaintiff alleges she was terminated due to her pregnancy and request for maternity leave, rather than for violating the recording policy. For plaintiff's retaliation claim, the court applied the *McDonnell-Douglas* burden shifting framework. The court found plaintiff's conversation informing her supervisor of her pregnancy to be sufficient verbal notice that plaintiff would need FMLA leave, despite not mentioning the FMLA specifically. Further, the court found the supervisor's statement that it was "too early" to discuss leave showed knowledge that plaintiff would soon take leave. Therefore, plaintiff provided sufficient evidence that she engaged in a protected activity. The court also found plaintiff provided sufficient evidence to establish a causal connection, bolstered by the comparison and disparate treatment of plaintiff and the employee who recorded the phone conversation.

As for plaintiff's interference claim, the court held that there were issues of material fact regarding whether defendant provided an independent reason for the termination unrelated to plaintiff's request for FMLA leave.

Summarized elsewhere

***Lucas v. Allegiance Specialty Hosp. of Greenville*, 2025 WL 2111089 (N.D. Miss. Jul. 28, 2025)**

***Paris v. MacAllister Machinery Co., Inc.*, 2025 WL 2265448 (E.D. Mich., Aug. 7, 2025)**

b. Adverse Employment Action

***Byrd v. Knox County Schools*, 2025 WL 445253 (E.D. Tenn. Jan. 10, 2025)**

Plaintiff, an elementary school special education teacher, brought claims for FMLA retaliation, among other things, against her employer. Plaintiff argued that upon refusing to report to a particular classroom for a temporary assignment due to safety concerns about students touching her in the classroom, and under the belief that she was being permanently assigned, she was assigned to the auditorium to help supervise students who did not comply with the school's mask mandate. When there were additional staffing shortages in the same classroom during the next semester, all three special education teachers were asked to assist but plaintiff refused and also failed to provide any documentation showing a credible safety or health concern preventing her from assisting. Plaintiff then received a negative performance evaluation in the areas of attitude and attendance due to her refusal to assist in the classroom and chronic absenteeism. She

does not appear to have requested FMLA leave until the next school year, and she continues to be employed and has received raises since the school year at issue.

The district court granted summary judgment to defendant on plaintiff's FMLA retaliation claims, holding that plaintiff failed to satisfy a prima facie case of retaliation because she did not suffer an adverse action. And, even if the performance evaluation and brief reassignment to the auditorium were actionable adverse actions, plaintiff did not take FMLA leave until after these actions occurred. Thus, plaintiff also failed to show a causal connection between her FMLA leave and the alleged adverse actions.

Note About Procedural Posture: This decision was appealed by plaintiff (after the district court denied a motion for reconsideration) and is pending in the Sixth Circuit. Briefing was completed on November 13, 2025, but no opinion has been issued.

***Collins v. Alabama State Univ.*, 2025 WL 928821 (M.D. Ala. Mar. 27, 2025)**

Plaintiff sued his former employer, Alabama State University, alleging FMLA retaliation, among other claims. Defendant moved for summary judgment, and the Magistrate Judge recommended that the motion be granted. Plaintiff subsequently filed objections to the recommendation.

To establish a prima facie case of FMLA retaliation, a plaintiff must demonstrate: (1) engagement in a statutorily protected activity, (2) an adverse employment action, and (3) a causal connection between the two. However, voluntary resignation does not constitute an adverse employment action. Accordingly, plaintiff failed to establish a prima facie case of FMLA retaliation, and the court adopted the Magistrate Judge's recommendation.

***Diemert v. City of Seattle*, 776 F. Supp. 3d 922 (W.D. Wash. 2025)**

Plaintiff, a program intake representative for the City of Seattle, alleged, among other things, that his employer committed an adverse action against him by denying his FMLA rights. The court found that while his employer had mischaracterized his reduced work schedule, Plaintiff was able to continue to take FMLA leave uninterrupted and did not face repercussions for doing so. The court did not find this error to rise to the level of an adverse employment action, and even if it did, Plaintiff did not show the employer's explanation for this action was pretextual. Because there was no adverse employment action and no evidence of a discriminatory motive for denying his FMLA designation, the court granted summary judgment on this discrimination and retaliation claim in favor of the employer. Appeal is pending at the Ninth Circuit.

***Forrest v. Zeeco, Inc.*, 2025 WL 2715479 (N.D. Okla. Sept. 23, 2025)**

Plaintiff, a buyer in defendant's purchasing department, filed suit under the FMLA and other laws against his former employer. After suffering a stroke, plaintiff returned to work without restrictions and was permitted to take additional time off when requested. Nearly two years later, plaintiff was placed on a performance improvement plan (PIP) to address concerns about his attitude, managing his anger, and disparaging comments made to co-workers. Plaintiff

successfully completed the required counseling under the PIP, but his supervisor later determined that he was not performing successfully in several areas. Plaintiff's supervisor issued him a final written warning with the expectation that plaintiff would then comply with the warning and improve his performance, but he refused to sign it and resigned from his position.

The court granted defendant's motion for summary judgment on plaintiff's claims for FMLA retaliation and interference. As an initial matter, the court agreed with defendant that any FMLA claims outside of a three-year statute of limitations are time barred. On the merits of plaintiff's claims, the court held that plaintiff had failed to establish that he was subject to any adverse employment action. Specifically, the court held that plaintiff's allegations of two remote disciplinary actions unrelated to his use of FMLA leave and an unsubstantiated suggestion that he had a larger workload than his colleagues were insufficient to establish an adverse employment action. On plaintiff's interference claim, the court held that he had failed to demonstrate actionable interference in arguing that defendant violated by the law by failing to re-notify him of his FMLA rights and by deciding to accept his resignation even though it was aware of information that might have qualified him for FMLA leave. Notably, there was no evidence that defendant refused to allow plaintiff to take FMLA leave; instead, all of plaintiffs' requests to take medical leave were approved and he was never reprimanded for being absent.

***Givens v. Massachusetts Institute of Technology*, 2025 WL 2645380 (D. Mass. Sept. 15, 2025)**

Plaintiff, Primary Care Supervisor, brought suit against healthcare employer alleging retaliation and interference in violation of the FMLA. Plaintiff's position included supervisory responsibilities over other employees with receptionist and data entry duties. Plaintiff took FMLA leave. During leave, the employer created and filled a Primary Care Manager position which was above Plaintiff in the organizational chart. Plaintiff did not apply for the position. Plaintiff argued that the employer interfered with and retaliated against employee by effectively demoting her by creating and filling the new position while employee was on FMLA leave.

The Court granted summary judgment to the employer on all claims. The Court held that plaintiff could not establish a violation of the FMLA because she did not suffer an adverse employment action, where she was returned to the same position with the same pay and benefits. Even if plaintiff lost some supervisory authority to the new position, it was not sufficient to constitute a change to her working conditions upon her return from FMLA leave.

***Hutchison v. Ranch & Home Supply, LLC*, 2025 WL 933808 (D. Colo. Mar. 27, 2025)**

Plaintiff, a store manager, brought claims against her former employer, a ranch supply store, *inter alia*, FMLA interference and retaliation. After plaintiff had been in her role as manager for a year and a half, plaintiff's supervisor began receiving complaints about plaintiff's management style, effectiveness, and attendance from other members of the management team. A few months after these complaints, plaintiff informed her supervisor that she would be taking FMLA leave. Plaintiff took approximately two weeks of FMLA leave and returned on May 5, 2021. On May 13, 2021, plaintiff's supervisor spoke with plaintiff about her management style and attendance, stating plaintiff "should have told her team how long she would be out on FMLA

leave," and that her team was questioning her commitment to the job. Plaintiff continued to have absences but took company sick leave and vacation time rather than FMLA leave. Other store employees continued to complain and distrust plaintiff due to her failure to communicate absences. Plaintiff was then terminated by her supervisor.

Defendant moved for summary judgment on all of plaintiff's claims. For plaintiff's retaliation claim, the court applied the *McDonnell Douglas* burden-shifting analysis. Because plaintiff did not prove causation between her FMLA leave and her termination, the court granted summary judgment on that claim.

For the interference claim, the court first addressed whether plaintiff was entitled to FMLA leave. Defendant relied on evidence showing plaintiff told her therapist she was "doing good" near the time she had taken FMLA leave, and that plaintiff was adequately performing her job when she attended work. Plaintiff presented evidence showing she had been treated by a medical provider four separate days within a month in the fall of 2021, and at those visits she discussed her mental distress due to her work. The court found plaintiff's evidence to be enough that a reasonable jury could find she was entitled to FMLA leave. Next, the court addressed whether the conversation between plaintiff and her supervisor on May 13 constituted an adverse action interfering with plaintiff's FMLA rights. The court applied Tenth Circuit precedent acknowledging that interference includes "not only refusing to authorize FMLA leave, *but discouraging an employee from using such leave*." The court held that a reasonable jury could find that the conversation between plaintiff and her supervisor constituted an adverse action, because the supervisor could have made plaintiff hesitant to take further FMLA leave after being told her commitment to the team was being questioned.

***Kliskey v. Making Opportunity Count, Inc.*, 775 F. Supp. 3d 496 (D. Mass. 2025)**

Plaintiff brings this action against her former employer for violations of various federal and state laws, including claims for interference and retaliation under the FMLA. In 2022 plaintiff's daughter attempted suicide, and plaintiff flew out of state to care for her. Plaintiff worked remotely during that time with permission, until she was notified that she could not. Plaintiff then used paid sick leave for an additional two weeks. Shortly before the end of her sick leave plaintiff completed and returned an FMLA form with a physician's certification stating that continuous leave would be required followed by a period of intermittent leave. Plaintiff also requested that she be allowed to work from home. During her continuous leave, plaintiff sought to use her accrued vacation and sick time. However, upon her return home she discovered that she had not been paid. Following this, plaintiff resigned, though there is some dispute as to whether it was processed and when. Plaintiff claims that defendant both interfered with her rights and retaliated against her for exercising those rights because it did not allow her to use her accrued time, failed to pay her in a timely manner, terminated her health benefits, terminated her, and coerced a resignation from her.

The district court, in granting summary judgment to defendant, analyzed the retaliation and interference claims together because plaintiff claimed that her employer had committed a retaliatory act of interference. The court relied on the factors for a retaliation claim to complete this analysis. First, the court determined that plaintiff had failed to demonstrate that she suffered

an adverse employment action. The court held that when an employee affirmatively states that she cannot return to work at the end of her FMLA leave and subsequently submits a formal resignation letter, it constitutes a voluntary resignation, not a termination or coerced resignation. Second, the court determined that plaintiff's claims that she had not been paid and that her health benefits were cut were insufficient to sustain her claim, because both resulted from plaintiff's failure to complete statutory notice requirements and to pay her premiums. Finally, the court held that there was no causal connection between plaintiff's protected activity and any alleged adverse action because plaintiff was the one who informed defendant that she was unable to return. As the court points out, it is not retaliatory to insist that someone return to work at the conclusion of their leave and to accept their resignation when they decline to do so.

***McDonald v. Metro. Nashville Airport Auth.*, 2025 WL 419356 (M.D. Tenn. Feb. 6, 2025)**

Plaintiff, an assistant vice president for defendant airport was ultimately fired after requesting intermittent FMLA leave. Plaintiff received positive performance evaluations and no warnings, yet his supervisor had concerns over the quality of his work and compliance with attendance and remote work policies. Plaintiff felt he was being treated unfairly by his supervisors and reported his concerns to human resources. Plaintiff then received a written reprimand from his supervisors followed by scrutiny of plaintiff's personal consulting business. After a sub-par performance review later that year, plaintiff applied for and was granted intermittent FMLA leave. His supervisor expressed concern over plaintiff's ability to get things done if he were out of the office regularly. One week later, plaintiff received another written reprimand. Plaintiff met again with human resources with concerns over his supervisor and was terminated shortly thereafter. Plaintiff's supervisor said the termination was not for performance but that he did not fit with their expectations.

Defendant moved for summary judgment on plaintiff's FMLA retaliation claim, which was denied by the district court. Defendant summary judgment motion disputed that plaintiff could establish a materially adverse action occurred through a written reprimand and did not discuss plaintiff's termination. The court concluded that an adverse employment action is not required but rather an action is materially adverse if it could dissuade a reasonable worker from exercising their rights and that a written reprimand could be sufficient. The court similarly concluded that sufficient temporal proximity existed in combination with the supervisor's negative comments about plaintiff taking intermittent leave, thereby satisfying plaintiff's *prima facie* case. Finally, the court concluded that a jury could find that defendant's stated non-retaliatory reason – poor performance – was pretextual due to the timing of plaintiff's request for FMLA even though the incident had occurred prior to that time.

***McLaughlin v. Walmart*, 2024 WL 4948841 (3d Cir. 2024)**

The court of appeals affirmed summary judgment for defendant on plaintiff's FMLA claim that defendant denied and interfered with her leave and retaliated against her for taking FMLA leave. Plaintiff was an assistant store manager who took several periods of FMLA leave during her seven years of employment with the company. Defendant's FMLA leave is administered through a third party who receives requests for leave and makes the final decision on whether to grant leave. Plaintiff complied with this process during her previous FMLA leave

periods. Recently, plaintiff alleged that her supervisors would make negative comments to her about her leave and suggested her FMLA had been denied. Plaintiff accepted a new job and notified defendant she was resigning due to health reasons. Despite her resignation, plaintiff stated that defendant store manager informed her that she was terminated for health reasons.

Plaintiff's allegation of retaliation failed because she voluntarily resigned and did not demonstrate she experienced any adverse action. The district court in Pennsylvania noted that the evidence in the record demonstrated she voluntarily resigned and her subjective belief that she had been terminated was insufficient to survive summary judgment.

In support of her claim for interference with FMLA, plaintiff referred to her belief that she had been terminated and her supervisors' comments that her leave request had been denied. The record revealed that plaintiff resigned from defendant and began her new job before the FMLA third party administrator had received an FMLA request. Because of her resignation, the FMLA request was not processed. The alleged comments from her supervisors did not constitute denial of her FMLA benefits because defendant used a third party administrator to make those decisions, which plaintiff knew from her prior use of FMLA. Finally, the court found the comments from the supervisors did not deter her from filing for FMLA since she applied for leave after the comments.

***Milner-Koonce v. Albany City Sch. Dist.*, 2025 WL 2781578 (N.D.N.Y. Sept. 30, 2025)**

Plaintiff sued her former school district employer for interference and retaliation relating to her 2020 FMLA leave. The district court granted summary judgment for defendants on the interference claim, agreeing with defendants that they never denied plaintiff FMLA leave for which she was entitled to. For the retaliation claim, plaintiff alleged she was retaliated against when her pay was docked on the day she began her FMLA leave. Defendant alleged the dock in pay was to reflect plaintiff's absence a few days prior so that she would not be paid for a day she did not work. The court granted summary judgment for defendants, finding that the dock in pay was for a legitimate non-discriminatory purpose and plaintiff could not show it was pretextual. Appeal is pending at the Second Circuit.

***Nixon-Jones v. The Corp. of Mercer Univ.*, 2025 WL 1710053 (M.D. Ga. Jun. 18, 2025)**

Plaintiff joined defendant's school of law as a tenure-track assistant professor. In the fall of 2021, she contracted COVID-19 and subsequently developed long-term complications. Defendant allowed plaintiff to work remotely for the fall semester and communicated to her that defendant had an internal FMLA policy to grant leave in such circumstances and plaintiff was granted FMLA leave. At the end of the semester, students raised concerns about plaintiff's clarity of course materials and exams, class cancellations, and unavailability. In the interim, however, plaintiff was offered a second year to teach. Plaintiff received an annual review from the dean where the negative student comments were discussed, and the dean communicated that the renewal contract decision for the upcoming year rested with the provost and university president (albeit the dean was aware that plaintiff would be made an offer). Plaintiff interpreted the class cancellation comments as "a warning her job was in jeopardy if her absences continued" and in March 2023, plaintiff resigned effective the end of the academic year. As of

the resignation date, plaintiff had used only two (2) hours of FMLA leave and no requests had been denied by defendant.

Plaintiff brought claims against defendant, including for FMLA retaliation. In granting defendant's motion for summary judgment, the court applied the "dissuade a reasonable worker" standard to the retaliation claim. Even under that more lenient standard, the court found that plaintiff's FMLA retaliation claim failed for not establishing an adverse action since she resigned and plaintiff produced no evidence defendant owed plaintiff a duty of disclosure with respect to the provost's and president's decision that she would be offered a position. Without plaintiff providing evidence to show how her two-hour FMLA use was connected to any adverse action, the court held plaintiff had no prima facie case for retaliation.

***Pleasant v. Kansas City S. Ry. Co.*, 2024 WL 5246880 (S.D. Tex. Dec. 30, 2025)**

Plaintiff, a locomotive engineer, sued defendant, a railroad, alleging retaliation under the FMLA, among other claims. Plaintiff alleged being the victim of several same-sex sexual harassment incidents. Plaintiff later had a stroke and was granted FMLA leave. Plaintiff alleged that defendant had called and texted plaintiff while on FMLA leave about providing testimony concerning plaintiff's sexual harassment claims. Plaintiff failed to present facts demonstrating that he responded to defendant's inquiries, nor was plaintiff required to testify regarding the alleged sexual harassment. The District Court for the Southern District of Texas granted defendant's motion for judgment on the pleadings. The court dismissed plaintiff's FMLA retaliation claim with prejudice, noting that defendant's contacts did not constitute an adverse employment action and "amendment would be futile."

***Potoma v. Cleveland Clinic Found.*, 2025 WL 948023 (N.D. Ohio Mar. 28, 2025)**

Plaintiff brought an FMLA retaliation claim after she resigned her employment, claiming she was constructively discharged. Plaintiff, an Advanced Practice Registered Nurse ("APRN") took intermittent and continuous FMLA leave for multiple serious health conditions between 2014 and 2022. Starting in late 2020, plaintiff got crosswise with her supervisor and chain of command regarding her failure to follow defendant's absence notification process, as well as plaintiff's failure to respond to emails and calls from her supervisor. Plaintiff was informed by her second-level supervisor that if she failed to respond to her supervisor, they might call the police to do a welfare check, or plaintiff may be subject to discipline, including possible termination. Plaintiff responded by filing a formal complaint with HR alleging her supervisor was harassing her. Conflict between plaintiff and her chain of command continued for the next 15 months. During that time, plaintiff continued to use intermittent and continuous FMLA from time to time. Plaintiff also submitted numerous complaints to various individuals complaining of, among other issues, alleged FMLA violations. Eventually, plaintiff resigned her employment, arguing she was constructively discharged.

Plaintiff identified several categories of evidence that she argued constituted a retaliatory work environment leading to her constructive termination, including but not limited to: holding plaintiff to a different call-in policy than others, her supervisor's intrusive inquiries as to why plaintiff was taking FMLA, various comments about transferring and replacing plaintiff due to her frequent absences (which never occurred), an explicit proposal (which was never acted upon)

to transfer plaintiff to a less prestigious role because of the impact of her FMLA absences, comments about plaintiff accruing excessive absences, proposed disciplinary actions which never ultimately occurred, and other negative comments about plaintiff's FMLA use from time to time.

The court concluded that the incidents complained of did not rise to the level required to establish a constructive discharge. The more intense scrutiny, isolated comments, and proposed but not implemented actions did not ultimately alter plaintiff's work environment such that she suffered an adverse action. Likewise, plaintiff failed to establish a causal connection between her alleged constructive discharge and her FMLA use. The comparators she relied on were not similarly situated, and defendant was able to provide legitimate reasons for every proposed transfer or action that it made (but did not implement). Finally, plaintiff was unable to establish that defendant's stated business reasons for its proposed actions were a pretext for retaliation for the same reasons she was unable to establish causation. For all these reasons, plaintiff's FMLA retaliation claim failed on summary judgment.

***Priest v. Walmart Stores E., LP*, 2025 WL 1107841 (S.D. Miss Apr. 14, 2025)**

A Walmart employee brought suit in the District Court for the Northern District of Mississippi alleging FMLA retaliation. Plaintiff took FMLA leave to care for her daughter. When she returned to work, plaintiff's supervisors made several comments about her absence and plaintiff's job position was altered resulting in a two dollar pay cut. Plaintiff's supervisor then altered one of plaintiff's timesheets, resulting in plaintiff appearing to have too many unexcused work absences and being terminated under defendant's attendance policy.

At the summary judgment stage, the court denied defendant's motion for summary judgment because plaintiff made a prima facie showing of causation and plaintiff was able to produce enough evidence for a factfinder to conclude that defendant's attendance policy justification was pretextual. For the prima facie case, plaintiff had sufficient evidence to show that FMLA leave was a potential cause of her termination. Plaintiff's supervisors made multiple negative comments about plaintiff taking FMLA leave, demoted plaintiff without her knowledge, and negatively altered plaintiff's timesheet. Plaintiff also had evidence that a similarly situated employee was treated less harshly for the same conduct. On pretext for retaliation, the court found that plaintiff's prima facie evidence supported an inference of retaliation even without further evidence of defendant's true motive. Defendant's motion for summary judgment was denied.

***Smith v. Collins, 2025* WL 2772295 (S.D. Ind. Sept. 29, 2025)**

Plaintiff requested and was granted intermittent FMLA leave after she was issued a written counseling. She filed suit nearly 2 years later, alleging FMLA retaliation, along with other claims. Summary judgment granted in favor of defendant on plaintiff's FMLA retaliation because the court concluded that a "no contact" orders issued to plaintiff, a written counseling, written reprimand, and a temporary reassignment were not materially adverse employment actions.

***Walker v. Health Partners Plan, Inc.*, 2025 WL 567014 (E.D. Pa. Feb. 19, 2025)**

Plaintiff, a Member Relations Representative responsible for handling Medicaid outreach and, at times, Medicare inbound calls for her employer, a healthcare maintenance organization, brought a retaliation claim under the FMLA arising out of two periods of protected leave in 2022. Following a January 2022 car accident, plaintiff sought intermittent leave to attend physical therapy. The employer's third-party administrator approved intermittent the FMLA leave from February 4 through July 3, 2022. In April 2022, plaintiff applied for continuous FMLA leave related to an OB/GYN procedure, which was also approved. Plaintiff alleged that during a conversation in January of 2022, a supervisor told her, "maybe this is not the job for you anymore" after plaintiff had indicated that she did not like taking inbound calls for the employer but preferred Medicaid outreach work. Plaintiff resigned on June 5, 2022, the last day of her continuous leave, after receiving all leave requested.

Plaintiff abandoned her FMLA interference claim at summary judgment, and the court dismissed it with prejudice. Plaintiff pursued only her retaliation claim, arguing that she experienced adverse treatment, being placed on Medicare inbound call duty, after invoking FMLA rights. But the U.S. District Court for the Eastern District of Pennsylvania made a finding that the employer never blocked plaintiff from attending medical appointments, never discouraged her from using leave, and never subjected her to negative remarks about her FMLA usage. Rather, the district court found that the evidence demonstrated that call-queue placement was dictated by call volume and handled by the workforce team rather than by any allegedly retaliatory supervisor.

The district court accordingly held that plaintiff failed to establish a prima facie case of FMLA retaliation. Although plaintiff engaged in protected activity by taking FMLA leave, she failed to identify a materially adverse employment action tied to that activity and produced no evidence of causation. Her only contemporaneous workplace complaint concerned a holiday work schedule, which had no connection to rights under the FMLA. Because plaintiff received all leave she sought and presented no evidence of interference, retaliatory motive, or adverse action caused by her FMLA usage, the court granted summary judgment for the employer on plaintiff's retaliation claim.

Summarized elsewhere

***Burton v. Univ. of Houston*, 2025 WL 92960 (S.D. Tex. Jan. 14, 2025)**

***Decou-Snowton v. Jefferson Parish et al.*, 2024 WL 4879466 (5th Cir. Nov. 4, 2024)**

***Hamilton v. Siemens Healthcare Diagnostics, Inc.*, 2025 WL 863572 (S.D.N.Y. Mar. 18, 2025)**

***Lopez v. City of Tampa*, 2025 WL 1726256 (M.D. Fla. Jun. 20, 2025)**

***McKeon V. Robert Reiser & Co.*, 770 F.Supp.3d 351 (D. Mass. 2025)**

***Rolison v. Edgewood Co., Inc.*, 2025 WL 388815 (E.D. Pa. Feb. 3, 2025)**

***Vallejo v. DeJoy*, 2025 WL 473632 (D. Conn. Feb. 12, 2025)**

***Warner v. Health Carousel, LLC*, 2025 WL 1207750 (S.D. Ohio Apr. 25, 2025)**

c. Causal Connection

***Adefurin v. Meharry Med. Coll.*, 2025 WL 1570978 (M.D. Tenn. Jun. 3, 2025)**

Plaintiff, a medical doctor and a resident physician, received a two-week suspension four months after taking FMLA paternity leave. The two-week suspension was issued as a direct result of plaintiff's unrelated absence from work without written approval, failure to answer related emails and use of a defiant tone when he belatedly answered the emails. Defendant medical facility issued a two-week suspension for the conduct and refused to remove the suspension from his record, even after he complied with remedial "charm school." Plaintiff filed an FMLA retaliation claim. Defendant filed a motion for summary judgment claiming plaintiff failed to meet the elements of a FMLA retaliation claim under the *McDonnell Douglas* burden shifting framework.

The court granted summary judgment for defendant. While plaintiff could establish that he took FMLA leave for paternity reasons, he could not establish that the committee that imposed the two-week suspension was aware of plaintiff's prior FMLA leave four months earlier. In addition, the court determined plaintiff was unable to establish a causal connection between plaintiff's FMLA activity and the adverse employment action. While plaintiff could point to a prior email questioning all resident's use of FMLA leave, unrelated suspensions for other residents FMLA use, and unrelated purported FMLA violations by defendant, it was undisputed that plaintiff missed work on a Friday, failed to answer emails until the following Monday afternoon and did so with a defiant tone.

The timing of the suspension - directly following the misconduct – shows that the written reprimand and subsequent discipline were a direct result of plaintiff's absence from work without written approval, failure to answer related emails and defiant response. Therefore, the court granted defendant's motion for summary judgment. Appeal is pending at the Sixth Circuit.

***Bentley v. Connellsville Area Sch. Dist.*, 2025 WL 1506222 (W.D. Pa. May 27, 2025)**

A classroom aide employed by a Pennsylvania school district alleged, among other claims, that the district interfered with her rights under the FMLA and retaliated against her for exercising those rights. Plaintiff had taken FMLA leave beginning in August 2021 for her own serious health condition, which was later extended and converted to unpaid personal leave. She alleged that in 2022–2023, the district delayed approval of her FMLA request, required additional medical documentation for intermittent leave days, and ultimately reprimanded her for overuse of leave.

The court noted that the record regarding the district's FMLA leave documentation policies was "surprisingly under-developed" and that plaintiff had sufficiently alleged and supported claims of protected activity and causally linked adverse employment actions to survive summary judgment. The court denied the district's motion for summary judgment, finding that material fact questions remained as to whether the district's actions, including its handling of FMLA leave, were motivated by discriminatory or retaliatory animus.

***Birmingham v. Hyundai Motor Mfg. of Alabama, LLC*, 2025 WL 725734 (M.D. Ala. Mar. 6, 2025)**

Plaintiff's work attendance fell far below defendant's required 99%. As a result, plaintiff was issued a formal warning letter per defendant's protocol and given the opportunity to provide documentation for absences. For approximately half of plaintiff's absences, plaintiff was able to provide documentation of valid FMLA leave (FMLA leave is an excused absence and does not impact the 99%). For the other half of plaintiff's absences, plaintiff provided documentation that FMLA leave had been applied for but could not provide documentation that FMLA was granted. Plaintiff was then put on "serious misconduct" under defendant's protocol because five of the unexcused absences fell within a two-week timespan. Defendant met with plaintiff to discuss the severity of "serious misconduct" and was required to write a commitment letter due at the end of plaintiff's shift the next business day. Plaintiff called out of work the next business day, giving no reason for his absence. Plaintiff returned to work the following day with his signed commitment letter. Hyundai terminated plaintiff's employment later that month for excessive absences. Plaintiff alleged FMLA retaliation.

The court granted defendant's motion for summary judgment because plaintiff was not able to show that defendant's proffered reason for termination was merely pretext for retaliation and that but-for plaintiff's exercise of his FMLA rights, he would not have been fired. Plaintiff conceded that if the factfinder determined that he was terminated for his absence directly after his "serious misconduct" meeting, he had no claim. Plaintiff, however, contends he was terminated for his late commitment letter. On the pretext issue, the court had ample evidence that plaintiff was terminated for his absence directly after the "serious misconduct" meeting, and no evidence that plaintiff was terminated for his late commitment letter. During the "serious misconduct" meeting, defendant explained that if plaintiff was absent another day without properly documented leave, he was eligible for termination. Further, plaintiff was not able to provide any evidence that but-for his exercise of FMLA leave, his employment would not have been terminated. Plaintiff argued that he was concerned the commitment letter would take away his ability to use future FMLA leave if the need arose, and that was why he returned the letter late. Plaintiff provided no affirmative evidence that he feared his FMLA right would be impacted, and even if he had, in the Eleventh Circuit, an employee's subjective belief of threatened adverse action on future FMLA leave is not determinative. Therefore, defendant's motion for summary judgment was granted. Appeal is pending at the Eleventh Circuit.

***Coffman v. Nexstar Media, Inc.*, 2025 WL 2049058 (4th Cir. Jul. 22, 2025)**

Plaintiff alleged Nexstar Media, Inc. terminated her employment in retaliation for asserting rights under the FMLA.

Plaintiff worked for defendant from February 17, 2020 to August 19, 2022 as an Account Executive at defendant's news station in West Virginia. In 2021, plaintiff was pregnant with twins and was diagnosed with placenta previa, which causes severe bleeding and required bedrest. Defendant approved plaintiff's request to work remotely. After eight weeks of remote work, plaintiff gave birth by c-section and received 12 weeks of FMLA leave. During her leave, plaintiff developed kidney complications and discussed further remote work upon return to work with her employer. Plaintiff took short term disability leave to address numerous surgeries she

needed. After about six months and without a definite return to work date, defendant terminated plaintiff, citing the need to fill her critical account executive position.

The district court granted defendant's motion for summary judgment and the Fourth Circuit affirmed. The Court found plaintiff found plaintiff did not establish a causal link between her termination and FMLA leave because (1) defendant permitted plaintiff to take FMLA leave when she wanted without issue, (2) defendant gave her an additional twelve weeks of leave after her guaranteed initial twelve weeks of FMLA leave expired, and (3) as a result, three months passed after the end of last FMLA leave and her termination. Without a timeline that supported causation, a statement that both parties wanted to limit her time on FMLA was not enough to support causation.

***Foren v. LBC Optics Inc.*, 2024 WL 4692149 (E.D. Wis. Nov. 6, 2024)**

Plaintiff, a former lab tech for an eyeglass lens manufacturer sharing its principal place of business with an optician, sued her employer for FMLA interference and retaliation following her termination. Plaintiff argued that she was a strong employee who was terminated the day after submitting her request for FMLA leave; defendant argued the opposite, that she had a history of behavioral issues leading to her termination the day before her leave request. The court denied summary judgment to defendants on both FMLA claims given the significant number of material facts in dispute, but primarily given the dispute about when the decision to terminate plaintiff was made.

The court denied the employer's motion for summary judgment on plaintiff's retaliation claim, finding that plaintiff provided sufficient evidence for a jury to find in her favor. Among other things, although defendant submitted declarations from two management witnesses asserting that the decision to terminate plaintiff was made before her FMLA request, the court does not make credibility determinations at the summary judgment stage. Further, the court held that plaintiff had submitted enough evidence in the form of her own declaration, her termination letter, and text messages between management witnesses exchanged on the day defendants claim it decided to terminate her for a jury to find that the decision was made *after* her FMLA request was filed. In addition, although suspicious timing is not enough to survive summary judgment, the court held that an inference of causation is "sensible" where "an adverse action comes so close on the heels of a protected act" and that there was additional evidence, besides suspicious timing, to support plaintiff's retaliation claim. Courts can and should consider circumstantial evidence when determining if there is a causal link between protected activity and an adverse action.

With respect to plaintiff's interference claim, the court denied defendants' motion for summary judgment. First, the court held that plaintiff could maintain her interference claim against both defendants, as although a primary employer provides FMLA leave, a secondary employer is also responsible for compliance with the prohibited acts provisions of the FMLA. In addition, because the parties dispute whether plaintiffs' FMLA request was made prior to or after the employer made the decision to terminate her, summary judgment to defendants is inappropriate.

***Hudson v. Cleveland Clinic Found.*, 2025 WL 1104854 (N.D. Ohio. Apr. 14, 2025)**

Plaintiff brought suit against her former employer for, among other claims, FMLA retaliation. Plaintiff contracted COVID-19 and had FMLA-approved leave for an extension of PTO as well as subsequent intermittent leave over the course of several months. Defendant then raised performance-related issues with regard to plaintiff's attendance, communication, time management, and timely completion of tasks. Plaintiff underwent performance reviews, a disciplinary action, a written notice, and, after being placed on a sixty-day performance improvement plan, was ultimately terminated.

The court granted defendant's motion for summary judgment. Plaintiff failed to establish a *prima facie* FMLA retaliation case because the direct and indirect evidence offered were unable to show a causal connection between the protected FMLA activity and the adverse employment action. The court disagreed with plaintiff's argument that the explicit inclusion of FMLA-covered leave in the critique of her attendance record at performance reviews was direct evidence of the causal connection. The court instead held that direct evidence must demonstrate that the adverse employment action would not have occurred but for the FMLA leave. The mere identification of FMLA leave as one among many reasons for concern at a performance review is not sufficient. The court also disagreed with plaintiff's argument that the temporal proximity of her FMLA leave and adverse employment action was indirect evidence of a causal connection. The first disciplinary action was roughly eight months after her FMLA leave and the court found this insufficient. A longer period of time between events makes them more attenuated.

***Kurtanidze v. Mizuho Bank, Ltd.*, 2025 WL 1898927 (S.D.N.Y. Jul. 9, 2025)**

Plaintiff brought suit against his former employer, including for interference and retaliation under the FMLA. Plaintiff worked for defendant as a vice president in the finance group and worked from home from March 2020 until his termination on April 6, 2021. The reasons stated for plaintiff's termination were that his existing role had become redundant and that he lacked the skills to take on open roles at defendant company. Plaintiff alleges that he was denied the opportunity to take extended leave to care for family members during their illnesses. However, the parties agree that plaintiff never contacted his manager to request any kind of leave.

Plaintiff claims he was terminated in retaliation for exercising his right to FMLA leave by requesting leaves of absence to care for his newborn child and to care for his father. The parties did not dispute the first three elements of plaintiff's *prima facie* retaliation case. They differed only as to the fourth: whether evidence supported that the adverse employment action at issue—plaintiff's termination—took place under circumstances giving rise to an inference of retaliatory intent. In granting summary judgment to defendant, the district court determined that it did not because there was no evidence, direct or indirect, that linked plaintiff's termination to his taking FMLA leave or his leave status. Further, the court determined that the nearly two-year gap between plaintiff's parental leave and his termination was far too remote to establish a causal inference of retaliation.

Plaintiff also alleged interference and retaliation under the FMLA relating to his disability and reasonable accommodation. Here, the court determined that plaintiff could not establish the fifth element of the *prima facie* case of interference, because he was not denied any benefit to which he was entitled under the FMLA. Similarly, the court held that plaintiff could not establish a *prima facie* case of retaliation under the FMLA because of his disability, because the parties agree that the supervisor who terminated plaintiff was unaware of his disability and there was no basis to infer that the termination was motivated by disability discrimination because it occurred a full year after plaintiff's request for an accommodation. Therefore, the court granted defendants motion for summary judgment. Appeal is pending at the Second Circuit.

***Lohmeier v. Gottlieb Memorial Hosp., et al.*, 147 F.4th 817 (7th Cir. 2025)**

Plaintiff, a nurse employed by defendant hospital, filed a lawsuit alleging her termination constituted FMLA interference and retaliation. After the U.S. District Court for the Northern District of Illinois granted summary judgment to defendant on plaintiffs' claims, plaintiff appealed to the U.S. Court of Appeals for the Seventh Circuit.

In affirming the district court's ruling as to plaintiff's interference claim, the Seventh Circuit concluded that plaintiff could not carry her burden to show that she was entitled to leave because her FMLA leave application failed to put defendant on notice as to what plaintiff's serious health condition was or when she would likely return to work. Similarly, the Seventh Circuit affirmed the district court's ruling on plaintiff's FMLA retaliation claim because plaintiff failed to demonstrate that her request for leave was the but for cause of her termination in two ways. First, the court rejected plaintiff's claim that her FMLA leave request was approved and then retroactively rejected. Second, although plaintiff was terminated the day after she submitted her FMLA leave request, the court concluded that without any other evidence of retaliation, the timing alone was insufficient, especially where at the time of her leave request, plaintiff was suspended and under investigation.

***Lopez v. City of Tampa*, 2025 WL 1726256 (M.D. Fla. Jun. 20, 2025)**

Plaintiff brought suit against city employer, alleging FMLA retaliation due to her demotion, her negative performance review, her termination, and failure to receive another position with defendant as a payroll technician. On summary judgment, the court granted defendant's motion relating to her demotion, holding that because plaintiff had taken FMLA leave *after* her demotion, there was no possible causal connection between the two.

However, the court denied summary judgment on the remaining claims. The court held that plaintiff had shown evidence that the performance evaluator was aware of plaintiff's FMLA use prior to the evaluation, had reviewed a chart relating to that leave, and had commented that "something seem[ed] amiss" with plaintiff's use of FMLA leave shortly before the evaluation. Moreover, the negative performance review constituted an adverse employment action because plaintiff had failed to receive a pay increase as a result, and it had potentially impacted her score in applying for the payroll technician job to an extent that another candidate was hired instead of her.

***Rheem v. UPMC Pinnacle Hosps.*, 2025 WL 3008146 (M.D. Pa. Oct. 27, 2025).**

Plaintiff, a long-time employee of defendant hospital system, suffered from a painful spinal condition and had previously taken FMLA leave and received accommodations. After a staff meeting in which defendant alleged plaintiff appeared impaired and discussed consuming a gummy, plaintiff was suspended and tested positive for marijuana metabolites, which plaintiff claimed was due to CBD use recommended by his doctor. Defendant terminated plaintiff shortly thereafter. Plaintiff brought claims for interference and retaliation under the FMLA, among others.

Applying the *McDonnell Douglas*, the district court in Pennsylvania denied summary judgment on plaintiff's FMLA retaliation claim, finding evidence from which a jury could infer a causal link between his recent requests for leave —such as time off for full-day physical therapy sessions—and his termination. The court noted that defendant was aware plaintiff's condition was worsening and that he had sought schedule modifications shortly before being fired. The court determined that, although defendant had a legitimate reason for terminating plaintiff's employment, plaintiff had presented evidence of inconsistencies in the stated reasons for the termination from which a jury could infer that the stated reasons lacked credibility. The court thus allowed plaintiff's retaliation claim to proceed. However, the court granted summary judgment in favor of defendant on the FMLA interference claim because plaintiff's prior leave requests were approved and there was no evidence defendant denied or obstructed his FMLA rights.

***Ricciardo v. NYU Hosps. Ctr.*, 2025 WL 2208371 (E.D.N.Y. Aug. 4, 2025)**

Plaintiff worked as a Physician Assistant for defendant, a New York hospital, until she was terminated while on FMLA leave in 2021, which Defendant claimed was for being caught "sleeping or appearing to be asleep" while on duty approximately two weeks before she initiated her FMLA leave request. Plaintiff filed a complaint in a New York district court for FMLA retaliation, as well as for discrimination under the ADA and New York state law. Defendant moved for summary judgment, which the district court granted.

With respect to plaintiff's FMLA retaliation claim, the court found plaintiff's prima facie burden met. Defendant argued that causality had not been satisfied, since it commenced the investigation that led to plaintiff's termination nearly two weeks prior to her request for FMLA leave. However, the court found that a reasonable juror could conclude that defendant was reasonably on notice of plaintiff's impending FMLA request because of conversations that occurred earlier than the formal request was submitted. Turning to the next step of the inquiry, the court found that defendant had proffered a legitimate nondiscriminatory basis for plaintiff's termination, namely being found asleep on shift. Because plaintiff failed to provide any evidence of pretext beyond temporal proximity, the court entered summary judgment and dismissed the case with prejudice. Appeal is pending at the Second Circuit.

***Salehian v. Nev. State Treasurer's Off.*, 2024 WL 4763689 (9th Cir. Nov. 13, 2024)**

Plaintiff sued her former employer as well as the state of Nevada and the Treasurer for multiple violations, including of the FMLA. The district court granted summary judgment for defendant. Plaintiff appealed, arguing, as to the FMLA claim, that it is reasonable for the court to make a circumstantial inference that she was terminated because she requested FMLA leave. The Ninth Circuit ruled that the district court correctly granted summary judgment on the FMLA claim, holding that plaintiff had brought forth no evidence supporting her claim that FMLA leave was a negative factor in the decision to terminate her, and concluded that it could not make such an inference. The court also noted unrebutted evidence that defendants began to work on plaintiff's termination ahead of her cancer diagnosis.

***Simonton v. Houston Methodist Continuing Care Hosp.*, 2025 WL 174023 (S.D. Tex. Jun. 9, 2025), adopted by 2025 WL 1745129 (S.D. Tex. Jun. 24, 2025)**

Plaintiff was initially approved for intermittent FMLA, which was later converted to a continuous FMLA leave. Plaintiff alleges that while she was using intermittent leave, she was demoted her to another position and was issued a written reprimand containing false allegations. Plaintiff brought a claim against defendant for retaliation in violation of the FMLA. Defendant moved for summary judgment, which the district court granted.

The court found that because there was a six-month time period between plaintiff's FMLA leave request and her termination, she could not rely on temporal proximity, alone, to establish a causal connection between her FMLA leave and her termination. Since the Fifth Circuit has "allowed plaintiffs to show causation by relying on "a chronology of events from which retaliation may plausibly be inferred," the court assumed plaintiff met her prima facie burden. However, the court found that defendant argued that plaintiff was terminated because she did not return to work when her leave ended and plaintiff failed to demonstrate that reason was pretextual. The court noted that although plaintiff had requested an extension of her leave, she did not follow up on the email conversation about the requested leave.

***Thomas v. Amazon.com Services*, 2025 WL 2774123 (S.D. Tex. Sep. 28, 2025)**

Plaintiff, an associate at one of defendant's warehouses, brought suit against defendant for retaliation and interference under FMLA. Both parties moved for summary judgment. The court initially acknowledged a dispute as to whether the limitations period began when plaintiff's leave request was denied or when plaintiff's employment was terminated, nothing a circuit split on the issue, but found that it did not need to resolve the question in this case because plaintiff's claim failed on other grounds, namely that an FMLA interference or retaliation claim based on an earlier denial of leave must show that the denial caused the termination.

When considering plaintiff's FMLA interference claim, the court found that plaintiff failed to show that his FMLA request caused his firing, due to a break in the causal chain as a result of a substantial intervening event. Namely, after his leave request was denied, plaintiff missed more than a month of work that was neither covered by company leave nor protected by FMLA, and he failed to offer sufficient evidence to raise a fact issue that the extended absence was caused by defendant's initial denial of leave. Plaintiff claimed that when he attempted to return to work after exhausting his leave, an individual on the worksite told him he had

exhausted his leave and needed to speak with his case manager as a result of defendants' miscounting days that should have been FMLA-protected absences. The court noted, however, that plaintiff did not reach out to a manager as instructed, but instead stopped reporting to work for a month. The court therefore found that plaintiff had not raised a genuine dispute that defendant terminated him because of his FMLA leave request, rather than because he missed work for a month with no excuse.

Likewise, without a causal connection between the termination and the alleged FMLA-protected activity, the court found that plaintiff could not show that defendant fired him because he engaged in protected conduct. While plaintiff established a prima facie case of FMLA retaliation due to the temporal proximity between the request and the termination, defendant articulated a legitimate, non-retaliatory reason for the firing. The court found that defendant's reason was sufficient because after plaintiff's work restrictions expired and he no longer had a basis for FMLA eligibility he missed an entire month of work. The court thus found that both plaintiff's retaliation and interference claims failed and granted summary judgment for defendants on plaintiff's FMLA claims.

***West v. BNSF Ry. Co.*, 2024 WL 4652206 (E.D. Wash. Nov. 1, 2024)**

A former train engineer brought suit against the railroad for alleged violations of the FMLA, among other claims. Plaintiff suffered from a rare medical condition for which he was granted intermittent FMLA leave. The following year, he re-applied for intermittent FMLA leave. Shortly after his renewed application, plaintiff was removed from service and effectively terminated because, defendant claimed, he was a direct threat to safety. Defendant moved for summary judgment and to bar testimony from plaintiff's expert who challenged defendant's safety assessment.

The district court denied defendant's motion to bar plaintiff's expert and denied in part, granted in part the motion for summary judgment. The district court granted summary judgment on plaintiff's claims of FMLA interference and retaliation. To prevail on his interference claim, plaintiff had to prove by a preponderance of the evidence that his usage of FMLA-protected leave was used as a negative factor in the decision to terminate him. According to plaintiff, defendant removed him from service after he had to disclose his medical diagnosis to explain why he needed FMLA leave. It was undisputed that defendant removed plaintiff from service after learning of his medical condition. Plaintiff argued that his termination was causally connected to his request for FMLA leave because he disclosed his medical condition when requesting protected leave. The court disagreed and held that an adverse action taken against plaintiff because of his medical condition is distinct from an adverse action taken against him because of his FMLA leave.

The district court also considered the difference between claims under 29 U.S.C. § 2615(a)(1) (interference) and (a)(2) (retaliation). Adverse actions taken against an employee simply because he used FMLA leave falls under a claim of interference with the exercise of rights under 29 U.S.C. § 2615(a)(1), it is not a claim under 2615(a)(2). Plaintiff did not dispute this argument in his response; therefore, summary judgment was granted on his retaliation claim as well.

Summarized elsewhere

***Bobnar v. AstraZeneca Pharms LP*, 758 F. Supp. 3d 690 (N.D. Ohio 2024)**

***Byrd v. Knox County Schools*, 2025 WL 445253 (E.D. Tenn. Jan. 10, 2025)**

***Collins v. City of Lowell*, 2025 WL 1265865 (W.D. Ark., May 1, 2025)**

***Cooper v. Airbus Americas, Inc.*, 2025 WL 321545 (S.D. Ala. Jan. 28, 2025)**

***Creekmore v. Truist Bank*, 2025 WL 1748362 (E.D. Va. Jun. 24, 2025)**

***Decou-Snowton v. Jefferson Parish et al.*, 2024 WL 4879466 (5th Cir. Nov. 4, 2024)**

***Jiggetts v. Cipullo*, 774 F. Supp. 3d 168 (D.D.C. 2025)**

***Kliskey v. Making Opportunity Count, Inc.*, 775 F. Supp. 3d 496 (D. Mass. 2025)**

***Ledbetter v. Freeman*, 2025 WL 2306225 (S.D. Ill. Aug. 11, 2025)**

***Lindley v. N. Mississippi Med. Ctr., Inc.*, 2025 WL 1069946 (N.D. Miss. Apr. 9, 2025)**

***Little v. Gray Media Group, Inc.*, 790 F.Supp.3d 1195 (D. Kan. 2025)**

***Lucas v. Allegiance Specialty Hosp. of Greenville*, 2025 WL 2111089 (N.D. Miss. Jul. 28, 2025)**

***Maluf v. Bergelectric Corp.*, 2025 WL 1898053 (D. Nev. Jul. 9, 2025)**

***McDonald v. Metro. Nashville Airport Auth.*, 2025 WL 419356 (M.D. Tenn. Feb. 6, 2025)**

***Pizza v. Toyota of Morristown*, 2024 WL 4948826 (D.N.J. Dec. 3, 2024)**

***Potoma v. Cleveland Clinic Found.*, 2025 WL 948023 (N.D. Ohio Mar. 28, 2025)**

***Reid v. Wrought Washer Mfg., Inc.*, 2024 WL 4708037 (E.D. Wis. Nov. 7, 2024)**

***Webster v. MHM Health Pros., LLC*, 2025 WL 896291 (S.D. Ind. Mar. 24, 2025)**

***Valeri v. Twp. of Toms River*, 2024 WL 4903558 (D.N.J. Nov. 27, 2024)**

***Vallejo v. DeJoy*, 2025 WL 473632 (D. Conn. Feb. 12, 2025)**

***Yates v. Nw. Barricade & Signs*, 2024 WL 4710746 (W.D. Wash. Nov. 7, 2024)**

i. Temporal Proximity

***Caruso v. City of Hartford*, 2025 WL 2701909 (D. Conn. Sept. 23, 2025).**

Plaintiff, a municipal deputy chief auditor, filed suit against his former employer for retaliation and interference in violation of the FMLA, among other things. Plaintiff made multiple complaints to human resources about his direct supervisor and was advised to take FMLA. Plaintiff's physician recommended—and defendant ultimately approved—full time FMLA leave of four weeks, then half-day leave for an additional one-month period. Plaintiff used his approved FMLA leave but returned from leave five days before the end of his approved full-time leave period and began working full time on a remote basis. However, upon returning from leave, plaintiff's supervisor informed him that he would continue to manage all audit reports that he had taken over while plaintiff was on leave. In addition, two months after plaintiff returned from leave, plaintiff's supervisor repeatedly sent audit report assignments to plaintiff's colleagues without including him on emails.

Defendant moved for summary judgment on all claims, including plaintiff's FMLA claims. The district court denied summary judgment to defendant on plaintiffs' retaliation claim, as the court held that a reasonable jury could find that plaintiff demonstrated a prima face case of retaliation based on his reduced job responsibilities following his return from protected leave. The court noted that an approximately three-month period between exercising his protected rights and the reduction in job responsibilities is sufficient to establish a causal connection, and that defendant also failed to produce admissible evidence sufficient to articulate a legitimate nondiscriminatory explanation for the reduced workload.

However, the court granted defendant's motion for summary judgment on plaintiff's interference claim. First, the court found that plaintiff abandoned this claim by failing to make arguments in response to defendant's summary judgment notion. Second, the court held that even if plaintiff had not abandoned the claim, no reasonable jury could find in plaintiff's favor given that he was denied FMLA benefits to which he was entitled because he requested and was approved for leave, took that leave and returned early, and did not request additional leave.

***Cilus v. NYU Langone Hospitals*, 2025 WL 2663112 (S.D.N.Y. Sept. 17, 2025)**

Plaintiff worked as a physician's assistant and was assigned to the hospital's MICU unit. Her supervisor placed her on a performance improvement plan. Plaintiff subsequently advised that she required leave for surgery due to a serious health condition. After the surgery, she sought and was granted several accommodations but ultimately her last request was denied due to the impact it was having on reassigning her work to others in the MICU unit. Plaintiff filed a complaint for, among other things, FMLA retaliation. Defendant moved for summary judgment.

The court held that plaintiff could not establish a prima facie case of retaliation under the *McDonnell Douglas* framework because the gap between protected activity and her termination (six months) was too long for temporal proximity to permit an inference of causation. She failed to establish a retaliatory animus because the evidence showed she was offered the opportunity to

return to the MICU several months after negative statements were made relating to her PIP but before she requested FMLA leave. Appeal is pending at the Second Circuit.

***Decou-Snowton v. Jefferson Parish et al.*, 2024 WL 4879466 (5th Cir. Nov. 4, 2024)**

Plaintiff, a former probation officer, brought suit alleging FMLA retaliation after she was presumed resigned when she did not return to work after a period of leave. The District Court for the Eastern District of Louisiana granted defendant's motion for summary judgment on both claims; the Fifth Circuit affirmed.

The district court first found that plaintiff failed to make a prima facie case of FMLA retaliation. The parties disputed what adverse actions were taken against plaintiff and whether there was a causal link between the actions and her FMLA leave. Plaintiff provided a list of employment actions taken against her that she contends were adverse, including her employer's monitoring of her Facebook page and subpoena of hospital visitation records. The Fifth Circuit rejected these arguments, finding that "[i]t seems reasonable that an employer does not take a materially adverse employment action when it simply verifies the need for leave." Additionally, the court rejected plaintiff's argument that an email from her supervisor which incorrectly denied an ADA leave request—and was quickly corrected—was an adverse employment action. Finally, the court found that plaintiff's loss of benefits after leave ended (and she failed to pay the premiums) was a "natural consequence of exhausting FMLA leave" and returning to work, not an adverse action.

The court, however, did find that plaintiff's "presumed resignation" was clearly an adverse action and turned to the issue of causation. First, it found that the resignation, which occurred four months after taking leave, was not close enough in time to indicate a causal link, determining that "two-and-one-half months is the outermost limit." *Id.* After examining plaintiff's other facts to show a causal connection, such as proof that the employer deviated from the leave policy and appeared to have skepticism over her need for leave, the court determined she did in fact meet her initial burden. However, ultimately the Fifth Circuit agreed with the district court, finding that plaintiff was unable to show defendant's reasons for her termination—that plaintiff violated the employer's policy for return from FMLA leave and her absence posed legitimate staffing problems—were pretextual. As a result, the court upheld the lower court's decision and found that the FMLA retaliation claim fails.

***Eck v. Walmart, Inc.*, 2024 WL 5159886 (E.D. Pa. Dec. 18, 2024)**

Plaintiff, a store manager, sued her former employer in the District Court for the Eastern District of Pennsylvania for violations of Title VII of the Civil Rights Act, the PHRA, and the FMLA. Defendant moved for summary judgment, which the court denied.

Plaintiff informed her manager that she was pregnant and requested leave under the FMLA for maternity leave. Shortly after, plaintiff received her first negative performance review, despite the store performing well. When plaintiff returned from maternity leave during the Covid-19 pandemic, plaintiff's store suffered from staffing issues and issues processing freight, which other stores also experienced. Due to these conditions, plaintiff continued to

receive negative performance reviews escalating to termination. Plaintiff claimed her termination was because her manager was concerned about her maternity leave and any future maternity leave. Defendant also refused to provide plaintiff with the necessary support to address the store issues. No other store managers were fired despite their stores facing similar challenges.

The court found plaintiff established a prima facie case of retaliation, focusing on evidence that showed a causal connection between plaintiff's leave and termination. Even though, taken alone, there was no temporal proximity indicating retaliatory animus between plaintiff's leave and termination, when considered alongside plaintiff's disciplinary actions and store performance in comparison to other stores, a causal connection could be established. Plaintiff's first negative performance evaluation came shortly after announcing her pregnancy, she claimed the manager seemed upset with her for missing the busiest time of year for a retail store, and she was the only store manager who took maternity leave and the only one terminated. Together, these factors indicated a causal connection.

The court accepted defendant's non-discriminatory explanation for terminating plaintiff – her unimproved performance, but plaintiff also presented evidence showing pretext. Plaintiff had exclusively positive performance reviews prior to her pregnancy announcement and no other store managers were fired despite facing the same challenges as plaintiff's store.

Overall, plaintiff provided enough evidence to establish a prima facie case of discrimination and summary judgment was denied.

***Glymph v. CT Corporations Systems*, 2025 WL 267089 (W.D. Wash. Jan. 22, 2025)**

Terminated employee brought suit against employer alleging retaliation and interference in violation of the FMLA. Plaintiff was terminated shortly after returning from a one-month FMLA leave. However, the employer produced evidence that plaintiff had been counseled and put on performance improvement plans before taking FMLA leave. Defendant claimed the termination decision arose because of plaintiff's continued poor performance and tardiness after her return from FMLA leave.

The Court granted summary judgment to defendant, holding that plaintiff could not establish causation despite the temporal proximity because her poor performance predated her FMLA leave and no other evidence supported a causal connection between her taking FMLA leave and the employer's decision to terminate her. Appeal is pending at the Ninth Circuit.

***Goodwin v. University of Pennsylvania*, 2024 WL 4678877 (3d Cir. Nov. 5, 2024)**

Terminated videographer brought suit against university employer alleging retaliation in violation of the FMLA, among other statutes. After taking FMLA leave multiple times, employee's position was terminated, which the employer said was because the position had become obsolete.

In an unpublished decision, the Third Circuit affirmed the trial court's grant of summary judgment in favor of defendant. The Court affirmed the trial court's ruling that plaintiff failed to

show causation between the FMLA leave and the termination because the three-month gap between the two, without more, was not sufficient to create an inference of causation. The Court also affirmed the trial court's ruling that plaintiff could not prove pretext because the employer provided a legitimate, nondiscriminatory reason for her termination, and the employee's claims of pretext were insufficient to rebut the employer's reasoning.

***Hamilton v. Siemens Healthcare Diagnostics, Inc.*, 2025 WL 863572 (S.D.N.Y. Mar. 18, 2025)**

Plaintiff sued his former employer, Siemens Healthcare Diagnostics, Inc., alleging FMLA retaliation, among other claims. Defendant moved to dismiss the complaint for failure to state a claim. To establish a prima facie case of FMLA retaliation, a plaintiff must demonstrate: (1) he engaged in a statutorily protected activity, (2) he was qualified for the position, (3) he experienced an adverse employment action, and (4) "the adverse employment action occurred under circumstances giving rise to an inference of retaliatory intent."

Defendant contended that plaintiff failed to demonstrate either an adverse employment action or a causal connection suggesting retaliation. However, plaintiff alleged that he suffered two adverse employment actions as he was assigned tasks outside the scope of his job duties and was subsequently demoted. Additionally, the court noted that an inference of retaliatory intent may be supported by "'very close' temporal proximity between the protected activity and adverse action." In this case, the alleged menial tasks began immediately upon plaintiff's return from leave, and he was demoted two weeks later. The court found that this temporal proximity was sufficient to support an interference of retaliatory intent at the pleasing stage. Therefore, the court denied defendant's motion to dismiss with respect to the FMLA claim.

***Harris v. Nat'l Grid USA Serv. Co., Inc.*, 2025 WL 915690 (D. Mass. Mar. 26, 2025)**

Plaintiff worked for defendant energy company as a subject matter expert in his field. On August 6, 2020, he sought FMLA leave to care for a parent but decided to withdraw it the next day on August 7, 2020. Plaintiff was then terminated on August 20, 2020. Between August 6 and August 20, plaintiff submitted a doctor's note advising of his recommendation that plaintiff work remotely. Defendant responded by stating that the doctor's note was too short and insufficient as basis to support remote work. Plaintiff's failure to supplement the doctor's note prompted the termination. Plaintiff filed suit alleging retaliation and interference theories under FMLA. The court granted defendant's motion for summary judgment on both theories.

As to the retaliation theory, the court found that plaintiff satisfied the protected activity and adverse employment because he requested FMLA leave and was then fired 14 days after making that request. The court, however, held that plaintiff could not establish a prima facie case of retaliation despite this close temporal proximity between both elements. The court explained plaintiff could not satisfy the third or causal element because the decision to terminate Plaintiff was in the process before his FMLA request and thus had nothing to do with his withdrawn request for FMLA leave. The court added that it would be "implausible that [defendant] would terminate him due to an FMLA claim that had yet to be filed" and could not be held liable for the

future filing of an FMLA of which is not aware. In addition, defendant warned plaintiff of the possibility of termination for job abandonment for failure to report to work in person.

The court granted summary judgment on plaintiff's interference theory on grounds that he withdrew his request for FMLA leave and was therefore not owed any other rights under the FMLA. It also rejected plaintiff's claim that defendant was monitoring the perfection of plaintiff's FMLA claim to ensure he would not file on before his dismissal on grounds that no evidence supported that assertion. Finally, the court noted that, by providing him guidance on the FMLA process, defendant did not interfere with his FMLA rights. Appeal is pending at the First Circuit.

***Haynes v. City of New York*, 2025 WL 946089 (S.D.N.Y. Mar. 27, 2025)**

Plaintiff worked as a human resource professional for the Cit of New York. In May 2018, plaintiff was diagnosed with uterine fibroids, which were removed in March 2019. In July 2018, she was elevated to Associate Commissioner of Human Resources and served in that position in an interim capacity until November 2018. At the beginning of this period, however, plaintiff applied to fill that position permanently and began several rounds of interviews. During this interview period, plaintiff asked for leave from September 11, 2018 to September 14, 2018 ("First Leave") to care for a back condition. Shortly thereafter in October 2018, another candidate was awarded that position she was interviewing for. Between December 18, 2018 to January 2, 2019 ("Second Leave"), plaintiff took time off for vacation. In March 2019, plaintiff underwent a procedure to remove uterine fibroids and needed FMLA leave between March 22, 2019 and April 12, 2019. Two weeks later, on April 24, 2019, plaintiff's supervisor advised Plaintiff that she needed to leave her office in two weeks in May 2019 and she would no longer work in the interim position. Plaintiff filed suit alleging FMLA retaliation and interference, as well as state law claims.

The Court held that, in using FMLA as the source of protected activity under that state's retaliation law, there was sufficient proximity from the time she was asked to leave her interim position in May 2019 to both the First and Second Leave. While temporal proximity alone cannot serve as the basis for establishing pretext, the record contained sufficient evidence of pretext, including that plaintiff was: 1) equally qualified to the selected candidate, 2) recommended by management in October 2018 before her leave; and 3) successful in demonstrating hostile reactions to her request for protected leave. Thus, on FMLA relation, plaintiff presented evidence that her request for leave was a substantial or motivating factor in the decision to hire a different candidate. The Court found Plaintiff abandoned her interference claim by failing to present evidence on this claim.

***Hogan v. Fidelity Brokerage Services*, LLC, 2025 WL 845785 (D.N.J. Mar. 17, 2025)**

Plaintiff worked as a financial consultant for an investment company. She had a young daughter who required ongoing care for a disorder that caused malnutrition, weight loss and a low heart rate. The company fired her for suspicious activity involving a system that gave consultants an additional credit for servicing a customer.

Plaintiff brought claims based on FMLA interference and retaliation, as well as state and federal laws.

The court denied defendant's motion for summary judgment on FMLA retaliation claim because of the close time proximity between plaintiff's leave and her termination. The company offered its investigation of plaintiff's use of the special customer activity method to improperly inflate her earnings. However, plaintiff continued receiving satisfactory job ratings during that time period. And, other consultants who failed to insert adequate notes for the special customer activity were placed on corrective action and not terminated.

For the FMLA interference claim, the court noted that the FMLA requires not only the employer to provide FMLA leave when required but also to avoid discouraging an employee from taking FMLA leave. The court found that a reasonable jury could find that defendant interfered with plaintiff's FMLA rights by "chilling" her desire to take FMLA leave.

***Jenkins v. Cornerstone Relocation Group, LLC*, 2025 WL 360553 (D.N.J. Jan. 31, 2025)**

Plaintiff worked in several positions with defendant, ultimately as a Vice-President for Corporate Services. The employer's business involved in assisting companies and employees from other companies relocate geographically. The COVID-19 pandemic caused a drastic reduction in relocations. As a result, defendant was contemplating a reduction in force in the spring of 2021, and on May 12, 2021, an email was circulated identifying Plaintiff as one of the employees to be furloughed.

Plaintiff had a heart attack in 2012 and took a brief amount of time off at that time and was generally able to manage his health condition for the next 9 years with little impact on his job. In April 2021, he experienced exacerbated health issues and notified HR on April 29, who began working with him to get FMLA leave approved, both retroactive and ongoing intermittent leave.

On June 2, plaintiff attempted to call HR to request a continuous medical leave of absence, at his physician's direction. They did not immediately answer his calls but returned his call a few hours later and notified plaintiff that he was being furloughed for six months due to "the COVID downturn" before Plaintiff had a chance to tell them about his doctor placing him on extended medical leave the prior day. When his furlough expired, the company terminated his employment.

Plaintiff then filed suit alleging violations of the FMLA, as well as other state and federal laws. Defendant challenged at the summary judgment stage the FMLA retaliation claim under the causation prong of plaintiff's prima facie case. The court found that, given the temporal proximity between the date plaintiff requested leave under the FMLA and the date of the decision to terminate his employment, an inference of causation existed since there was just a 12-day gap. The court concluded that there were genuine issues of fact about whether the company's cost-reduction plan was merely a pretext for retaliation for plaintiff's requests for FMLA leave. The court denied the motion for summary judgment on all claims.

***Lindley v. N. Mississippi Med. Ctr., Inc.*, 2025 WL 1069946 (N.D. Miss. Apr. 9, 2025)**

Plaintiff, a surgical technician, brought FMLA retaliation claims in the district court against the medical center where she worked. Plaintiff suffered from mental health disorders for which she took FMLA leave multiple times prior to her termination. Plaintiff was set to begin FMLA leave once again, this time because of hernia surgery, but was fired the day before her leave was to begin. Defendant moved for summary judgment. Defendant contended its approval of plaintiff's seven previous FLMA leave requests over her ten years of employment contradicted the notion that defendant has now decided to retaliate because of an upcoming FMLA leave.

The court nonetheless denied defendant's motion for summary judgment, finding under Fifth Circuit case law, that a causal connection had been demonstrated by the temporal proximity between the protected activity and the adverse action, as plaintiff was scheduled for FMLA leave the immediate day after her termination. Defendant asserted the reason for plaintiff's termination was because she engaged in inappropriate conversation in the workplace, but the court found that a jury could conclude this reason was a pretext for retaliation since plaintiff presented evidence that defendant had not followed its 3-tiered disciplinary policy when terminating her employment, and that other employees who had the same type of conversations were not fired.

***McNutt v. Myers-Holum, Inc.*, 2025 WL 462298 (S.D Ind. Feb. 11, 2025)**

Plaintiff alleged that defendant retaliated against her in violation of the FMLA due to her attempt to exercise her leave rights. Plaintiff worked as a team lead for defendant, providing technology services and support for a third-party client who then suspended defendant's technology services on October 7, 2022. Defendant attempted to place plaintiff on other teams but was unsuccessful. On October 17, 2022, defendant's CEO made the decision to terminate plaintiff's employment and began the steps to do so. On October 19, 2022, plaintiff reached out to Human Resources to proactively submit FMLA intermittent leave paperwork for a chronic condition since her one-year anniversary was approaching, although she did not have a need for leave at the time. On October 21, 2022, the CEO instructed Human Resources to terminate plaintiff's employment. Human Resources informed the CEO about plaintiff's inquiry into FMLA – this was the first instance the CEO knew about plaintiff's health condition. Defendant proceeded to terminate plaintiff's employment on October 24, 2022. Plaintiff submitted her FMLA paperwork on October 31, 2022. Defendant hired several project managers in the next few months on different projects for which plaintiff did not have experience.

The district court granted summary judgment for defendant and concluded that plaintiff's allegation of "temporal proximity" failed when the decision to terminate her employment predated the FMLA leave request. The court also found plaintiff's pretext evidence, namely that she received no performance warnings and defendant hired additional project managers, was not sufficient because she was not terminated for performance and she did not have the requisite experience for those other positions.

***Odunze v. Methodist Hosp.*, 2025 WL 2423658 (S.D. Tex. Aug. 21, 2025)**

Plaintiff worked in HR at defendant hospital. After she was terminated for purported performance reasons, she claimed discrimination and retaliation, including retaliation because she took FMLA leave. Defendant moved for summary judgment.

The court denied summary judgment, finding a genuine dispute of material fact as to whether plaintiff's termination was because she sought protection under the FMLA. The court held that while defendant attempted to distance comments made by plaintiff's supervisor regarding plaintiff's FMLA leave and discredit the weight of the temporal proximity between the time of plaintiff's FMLA leave and her termination, such evidence at the summary judgment stage must be viewed most favorably to Plaintiff. The court looked at the temporal proximity and whether the leave was a "motivating factor" in the adverse action and determined plaintiff presented a genuine issue of material fact because the supervisor allegedly made comments regarding the FMLA leave and her termination came less than a month after her return from FMLA leave. The court determined defendant hospital made no demonstration as a matter of law showing it would have taken the same action if not for the FMLA leave.

***Persichini v. AutoZoners, LLC*, 2025 WL 1869269 (D. Mass. Jul. 7, 2025)**

Plaintiff was a Hub manager at AutoZone. After he returned from a 30-day medical leave, he was transferred from managing a Mega Hub to managing a smaller store. Plaintiff claimed the transfer constituted FMLA retaliation.

Defendant's Motion for Summary Judgment was denied because plaintiff alleged sufficient facts, including the transfer decision was not "final" before he went on leave and because he was demoted the day he returned to work. The court determined because there was close temporal proximity between the dates of leave and the adverse action, there was a strong suggestion of retaliation such that summary judgment was not appropriate.

***Rees v. Newcomer Funeral Serv. Grp., Inc.*, 2025 WL 1951509 (S.D. Ohio Jul. 16, 2025)**

Plaintiff, a former funeral service manager, required time off from his work to treat his heart condition. Following one instance of that leave, defendant terminated his employment, claiming performance deficiencies, complaints, and failure to participate in a performance plan. Plaintiff filed suit, asserting his termination constituted FMLA retaliation, among other claims. Defendant moved for summary judgment, arguing that plaintiff could not carry his burden to show a causal connection between his termination and any protected right under the FMLA. The district court concluded that the three-week period of time between taking covered leave and being terminated satisfied plaintiff's prima facie burden to show causation by temporal proximity. However, after defendant articulated a nondiscriminatory basis for plaintiff's termination (performance issues, staff complaints, etc.), plaintiff was unable to carry his burden to show those explanations were pretextual, and the court entered summary judgment for defendant.

***Shay v. Homitz*, 2025 WL 1550099 (E.D. Pa. May 30, 2025)**

Plaintiff was a license examiner assistant for defendant. Plaintiff sued under the FMLA, alleging he was suspended and discharged because he took FMLA leave. Defendant moved for

summary judgment, which the district court granted. The district court found that the two days between plaintiff's return from FMLA and his suspension showed an unusually suggestive temporal proximity and, thus, a causal relationship between the protected activity and adverse decisions. However, defendant articulated a legitimate nondiscriminatory reason for suspending and terminating plaintiff–unsatisfactory performance–and plaintiff failed to show that the articulated reason was pretextual. The court held that sometimes evidence from the prima facie case can establish pretext, but when the evidence used to show causation at the prima facie stage was "unusually suggestive temporal proximity between the protected activity and the adverse action," the unusual temporal proximity, without more, does not establish pretext.

***Turner v. Wal-Mart Associates, Inc.*, 2025 WL 2049054 (4th Cir. Jul. 22, 2025)**

Plaintiff, a stocker for defendant's store, brought suit against defendant alleging mistreatment under various employment law theories, including for retaliatory action and interference under FMLA. The district court granted defendant's motion for summary judgment, finding that plaintiff did not make a *prima facie* case because there was no material fact dispute about causation, and plaintiff appealed. Plaintiff argued that she was fired for being pregnant as well as for filing complaints during her pregnancy, but she was not fired during the pregnancy. Additionally, immediately before she was fired, plaintiff missed three weeks of work without following the proper procedures to obtain leave.

The appellate court rejected plaintiff's argument, reasoning that, under the *McDonnell Douglas* burden-shifting framework, her claims required a showing of causation between her pregnancy and complaints and the termination. The court found that the temporal gap–plaintiff was terminated approximately six months after giving birth–between plaintiff's filing of complaints and giving birth and her firing by defendant instead suggested that the termination was not connected to her pregnancy and complaints. The court further reasoned that the proximity of plaintiff's unapproved absence to her termination undermined any plausible inference that she was fired for any reason other than her failure to show up for work. Thus, the court found that plaintiff's claims failed for failing to establish causation between plaintiff's complaints and pregnancy and her termination and affirmed the district court's decision.

Summarized elsewhere

***Bentley v. Connellsville Area Sch. Dist.*, 2025 WL 1506222 (W.D. Pa. May 27, 2025)**

***Brennan v. Five Below, Inc.*, 2025 WL 817597 (E.D. Pa. Mar. 13, 2025)**

***Collins v. City of Lowell*, 2025 WL 1265865 (W.D. Ark., May 1, 2025)**

***Conklin v. ABEC, Inc.*, 2025 WL 1208904 (E.D. Pa. Apr. 25, 2025)**

***Cooper v. Airbus Americas, Inc.*, 2025 WL 321545 (S.D. Ala. Jan. 28, 2025)**

***Doe v. Wal-Mart Stores E., LP*, 2025 WL 2803826 (E.D. Pa. Oct. 1, 2025)**

***Foren v. LBC Optics Inc.*, 2024 WL 4692149 (E.D. Wis. Nov. 6, 2024)**

***Houdeshell v. Council on Rural Serv. Programs, Inc.*, 2024 WL 4817439 (S.D. Ohio Nov. 18, 2024)**

***Hudson v. Cleveland Clinic Found.*, 2025 WL 1104854 (N.D. Ohio. Apr. 14, 2025)**

***Jolibois v. Pub. Health Tr. of Miami-Dade Cnty.*, 2025 WL 958247 (S. D. Fla. Mar. 31, 2025)**

***Kurtanidze v. Mizuho Bank, Ltd.*, 2025 WL 1898927 (S.D.N.Y. Jul. 9, 2025)**

***Lishego v. Tri Star Motors, Inc.*, 2025 WL 755532 (W.D. Pa. Mar. 10, 2025)**

***Lohmeier v. Gottlieb Memorial Hosp., et al.*, 147 F.4th 817 (7th Cir. 2025)**

***Lopez v. City of Tampa*, 2025 WL 1726256 (M.D. Fla. Jun. 20, 2025)**

***Maldonado v. Harris County, Tex.*, 2025 WL 2443389 (S. D. Tex. Aug. 25, 2025)**

***Reid v. Wrought Washer Mfg., Inc.*, 2024 WL 4708037 (E.D. Wis. Nov. 7, 2024)**

***Ricciardo v. NYU Hosps. Ctr.*, 2025 WL 2208371 (E.D.N.Y. Aug. 4, 2025)**

***Sheehan v. Shippensburg Univ.*, 2025 WL 1870922 (M.D. Pa. Jul. 7, 2025)**

***Simonton v. Houston Methodist Continuing Care Hosp.*, 2025 WL 174023 (S.D. Tex. Jun. 9, 2025), adopted by 2025 WL 1745129 (S.D. Tex. Jun. 24, 2025)**

***Uttarwar v. Lazard Asset Mgmt. LLC*, 2025 WL 704278 (2d Cir. Mar. 5, 2025)**

***Watkins v. Mack Trucks, Inc.*, 2025 WL 2086107 (E.D. Pa. Jul. 24, 2025)**

***Yates v. Nw. Barricade & Signs*, 2024 WL 4710746 (W.D. Wash. Nov. 7, 2024)**

ii. Statements

Summarized elsewhere

***Reid v. Wrought Washer Mfg., Inc.*, 2024 WL 4708037 (E.D. Wis. Nov. 7, 2024)**

2. Articulation of a Legitimate, Nondiscriminatory Reason

***Beachner v. Howard Univ.*, 2025 WL 915573 (D.D.C. Mar. 25, 2025)**

The manager of a university cardiac catheterization laboratory brought suit against his employer in the United States District Court for the District of Columbia alleging FMLA retaliation. The court granted defendant's motion for summary judgment. Plaintiff argued that defendant fired him in retaliation for taking FMLA leave. Defendant argued that plaintiff's employment was terminated because his position became obsolete. Plaintiff's manager position

was eliminated and replaced by a director position for which being a nurse with cardiology and catheterization experience was a prerequisite. To prove that defendant's reasoning for firing plaintiff was pretextual, plaintiff pointed to an email in which defendant stated that it would work with plaintiff to fill the director role. The court held that this email was not "positive evidence," and did not support plaintiff's claim that defendant's reason for termination was pretextual—nowhere in the email did defendant affirmatively agree that plaintiff should remain in his position as manager. There was no genuine issue for trial; thus, granting defendant's motion for summary judgment was appropriate. Appeal is pending at the D.C. Circuit.

***Eaton v. Montana Silversmiths*, 2025 WL 371454 (D. Mont. Feb. 3, 2025)**

Plaintiff, an employee in defendant silversmith company's engraving department, sought to enforce FMLA rights and eligibility concurrent with his use of workers compensation following carpal tunnel release surgery. Defendant denied plaintiff's FMLA benefits, even though the employee handbook stated that worker's compensation leave could run concurrently with FMLA leave. Defendant terminated plaintiff after eight weeks of leave as part of a Reduction in Force ("RIF") plan due to a loss of business, and his performance evaluations and cross-training scores were factors in his termination.

After the district court granted dismissal of the employee's FMLA claims, plaintiff appealed to the Ninth Circuit, which reversed the district court's dismissal, and found that there were sufficient facts to suggest that defendant interfered with plaintiff's FMLA leave, as defendant told him he was not eligible for FMLA benefits despite its handbook stating that worker's compensation leave would run concurrently with FMLA leave. Because defendant terminated plaintiff before the guaranteed twelve weeks of FMLA leave, plaintiff claimed that defendant interfered with his FMLA rights by discouraging him from using his FMLA leave and by terminating his employment while he was on leave.

On remand to the district court, defendant moved for summary judgment on the FMLA claim, which the court granted. The district court explained that defendant demonstrated a legitimate business reason for plaintiff's termination and that plaintiff failed to provide evidence that defendant's reasons for his termination were pretextual.

The court also found that plaintiff could not prove he suffered any prejudice from the alleged interference because defendant had a legitimate business reason for his termination unrelated to his FMLA leave. Defendant initiated a restructuring and cost-savings plan, which included plaintiff's termination. Moreover, his scores on defendant's cross-training matrix used to select employees for its downsizing were the lowest in the company. Therefore, the court concluded that plaintiff would have been terminated regardless of his FMLA leave status.

***Eggleston v. Johns Hopkins Health System Corp.*, 2025 WL 2344692 (D. Md. Aug. 13, 2025)**

Defendant health system initially hired plaintiff as a housekeeper to work in its power plant. During plaintiff's employment, plaintiff applied for a skilled worker position, completed a plumber apprenticeship, and sat with the power plant stationary engineers as he studied for the engineering license exam. However, throughout his employment, plaintiff received counseling

and warnings for attendance issues affecting his performance. In November 2022, defendant approved plaintiff's request for intermittent FMLA leave. In early 2023, plaintiff revised his FMLA request, which was granted. Plaintiff admits that defendant approved all of his requests for leave. Plaintiff was terminated in February 2023 for major and critical work violations.

Plaintiff filed a lawsuit against defendant and in the complaint, Plaintiff alleged that defendant interfered with his FMLA right and terminated him for his "absence from duty coinciding with a visit to his doctor," an absence which the employer granted as FMLA leave. Plaintiff attempted to bolster his complaint by citing an interaction with his direct supervisor, who cautioned him against missing a meeting for a doctor's appointment. However, plaintiff disregarded that advice and went to the appointment. Plaintiff suffered no adverse consequence.

Defendant moved for summary judgment and plaintiff failed to respond. The court nonetheless analyzed the evidence and found no evidence of interference since plaintiff admitted that he suffered no adverse consequences as a result of going to his medical appointments. The district court granted summary judgment.

***Farrell v. Mon Health Care, Inc.*, 2025 WL 2740394 (N.D.W. Va. Sept. 25, 2025)**

FMLA discrimination and retaliation claims brought by plaintiff, a clinic registration representative, failed as a matter of law because she was unable to prove that defendant clinic's proffered legitimate termination reason—that plaintiff had violated the clinic's HIPAA Privacy Policy a second time—was pretextual. Plaintiff received prior counseling to lock her computer and not share her password with others. During defendant's investigation into a second incident of another employee allegedly accessing her account, plaintiff stated in writing that she did not know if she had locked her computer before leaving her workstation. The court found plaintiff's testimony during litigation that she absolutely did not leave her computer unlocked, despite the contemporaneous email communications to the contrary, was self-serving and did not create a factual dispute on the question. The court rejected plaintiff's argument that defendant's termination reason was pretextual because a co-worker was not terminated for similar misconduct, noting that because the co-worker had also utilized FMLA leave, she was not treated more favorably than plaintiff but for her FMLA use. The court found that other alleged comparators that had utilized FMLA leave were not similarly situated to plaintiff because they did not engage in the same conduct. Finally, temporal proximity arguments did not save her claim, as plaintiff's discharge occurred just hours after she answered investigation questions in which she stated she did not know if her computer had been locked. Appeal is pending at the Fourth Circuit.

***Fisher v. Boeing Co.*, 2025 WL 888491 (E.D. Pa. Mar. 21, 2025)**

Plaintiff, a sheet metal assembler, intermittently took FMLA leave throughout his employment for his skin ailments. Irrespective of his FMLA leave, Plaintiff had poor attendance at work and received numerous verbal and written warnings about unexcused absences. He also had discrepancies in his time records, and investigators found that he had fraudulently reported over a quarter of his hours in a single pay period. Because Plaintiff had committed time fraud

while working on government contracts, he was fired. Plaintiff subsequently filed suit, alleging, among other things, retaliation under the ADA and FMLA.

The court applied the *McDonnell Douglas* burden-shifting framework and found that Plaintiff had failed to make a prima facie case for any of his claims, and even if he could do so, he failed to demonstrate his firing was pretextual. Accordingly, the court granted summary judgment to his employer. The court found that while FMLA leave can qualify as an ADA protected activity when an employer knows, or has reason to know, that the leave is not based on a one-time event, Plaintiff could not prove causation between this protected activity and his discharge. Nor could he prove causation in his FMLA retaliation claim, as there was no evidence of ongoing antagonism or suspicious timing. Additionally, the court found that the employer had a legitimate, nondiscriminatory reason for firing Plaintiff.

***Gipson v. Cincinnati Children's Hosp. Med. Ctr.*, 2025 WL 1557950 (S.D. Ohio Jun. 2, 2025)**

Nurse who was terminated brought suit against hospital employer alleging retaliation and interference with leave in violation of the FMLA. Employee took FMLA leave as needed to care for her children with medical issues. Employee, who had previously received coaching and a formal reprimand for poor performance, as well as attendance and notification issues, was terminated for an operating room incident where she increased the setting on a skin-cutting machine when she was supposed to decrease it.

The Court granted summary judgment to the employer on all claims. The Court held that, employee's interference claim failed because employee received all the FMLA leave she requested and employee's assertions that her supervisors "gave her a hard time" for using FMLA leave were not sufficient to establish that use of FMLA leave was discouraged or chilled. The Court also held that the retaliation claim failed because, even if the employee had made a prima facie case, the employer provided a legitimate, nondiscriminatory basis for termination, and the employee could not establish pretext.

***Lomboy v. Wells Fargo Bank, Nat'l Ass'n*, 2025 WL 2899214 (N.D. Cal. Oct. 10, 2025)**

Plaintiff employee filed several claims against defendant employer, including discrimination, retaliation, and interference under the FMLA. Plaintiff worked for defendant from 2007 until his termination in 2024. Plaintiff began experiencing vision loss, headaches, and hearing loss in 2020 and took FMLA leave in April and May of 2022. Plaintiff stated he requested to take leave until June 2022 but was told by his supervisor that his role would be filled if he did not come back in May 2022. Following his return, plaintiff received his first ever performance review with a rating below "meets expectations." Plaintiff alleged he was also pressured to transfer to a smaller branch around that time. Plaintiff took a second FMLA leave June to August 2023. Upon his return from his second FMLA leave, plaintiff was investigated by defendant for an incident in which he allegedly opened a bank account for a customer in violation of company policy. Following the investigation, plaintiff was terminated.

Defendant moved for summary judgment on plaintiff's FMLA claims, claiming plaintiff was approved for every accommodation and leave he requested, and that plaintiff's dismissal was the result of a legitimate business reason: that plaintiff violated company policies. The court

applied the *McDonnell Douglas* framework to plaintiff's discrimination and retaliation claims and found there was a triable issue of fact as to whether the stated business reason for plaintiff's firing was a pretext to fire him for taking leave, requiring the court to deny defendant's motion for summary judgment. The court also denied summary judgment for defendant on plaintiff's interference claim, citing to plaintiff's supervisor telling plaintiff his position would be filled if he extended his approved leave, and plaintiff's negative performance reviews upon his return from leave the first time.

***Papczun v. Nuco Education Corp.*, 2025 WL 1769745 (N.D. Ohio, Jun. 26, 2025)**

Plaintiff took FMLA leave but failed to return after being released to return to work, claiming it was too dangerous to do so due to Covid-19, even though others had returned to work. His employment was terminated, and he sued, alleging FMLA retaliation.

The court granted summary judgment on behalf of the employer because plaintiff failed to establish a causal connection between his FMLA leave and termination. Even though there was close temporal proximity between the FMLA leave and his termination, plaintiff's employment was terminated only after he failed to return to work and refused to appear at work for meetings with his supervisors after being released to work. The court determined an employee was "not permitted to unilaterally choose which job duties [to] perform" such that a retaliatory discharge claim fails when an employee disobeys directives from a supervisor. The employer thus established legitimate, non-discriminatory reasons for termination. The court also found plaintiff failed to establish pretext, noting temporal proximity is not enough to establish pretext when there is other, independent evidence supporting the termination. Plaintiff tried to argue the in-person meetings were not necessary and insufficient to warrant discharge. However, the court reasoned that even if the employer's decision was mistaken, ill-considered or foolish, so long as the employer believes the reasons, there is no pretext. An employee cannot demonstrate pretext by quarreling with the wisdom of a work rule he violated. If the employee could show others in a similar context were treated differently, he could establish pretext. He failed to do so.

***Paterakos v. City of Chicago*, 147 F.4th 787 (7th Cir. 2025)**

Plaintiff was suspended for 5 days pursuant to a progressive discipline policy, after she was granted FMLA leave to assist her father with medication issues, activities of daily living, and appointment attendance. She sued the City of Chicago and her supervisor, claiming her suspension and discipline interfered with or was retaliation for taking FMLA leave. The Northern District of Illinois granted summary judgment on all claims, and plaintiff appealed to the Seventh Circuit, which affirmed.

The Court determined that the undisputed facts demonstrated defendants honestly believed, even if mistakenly, that plaintiff was abusing FMLA leave. This honest belief defeats claims for FMLA interference and retaliation. The undisputed evidence demonstrated plaintiff's supervisors honestly believed plaintiff was abusing her leave based upon observation of her socializing around city hall, talking on her cell phone during the leave, and signing in late for work despite being in City Hall. Plaintiff admitted to socializing and signing in late. However,

the evidence demonstrated that some of the phone calls observed were for assisting her father, such that the supervisors' beliefs were mistaken. An honest suspicion of misuse of FMLA leave defeats FMLA liability as a matter of law. The court stated the investigation into the misuse was not what it should have been. The supervisor never received training on what constitutes protected activity under the FMLA, and plaintiff never informed her that her phone calls were related to her father's care. In lieu of any concrete information, the supervisor assumed based on her own FMLA leave and general managerial experience that taking phone calls could not be related to caring for a family member. The court found that while that assumption was mistaken, the fact that the supervisor was ignorant of plaintiff's reason for taking FMLA leave and made unsupported assumptions about her conduct does not suggest that she did not really believe plaintiff was abusing her FMLA leave. Thus, even mistaken, ill-considered reasons, so long as they are honest beliefs, defeat the FMLA claim and any showing of pretext.

***Wright v. Kansas City S. Ry. Co*., 2025 WL 1908982 (W.D. Mo. Jul. 10, 2025)**

Plaintiff, a train conductor, alleged that defendant, a fright rail company, terminated him in retaliation for taking FMLA leave in 2024. The district court held that, even assuming plaintiff established a prima facie case, defendant has articulated a legitimate, nondiscriminatory reason for terminating him, and plaintiff has not established pretext.

Defendant presented evidence that it terminated plaintiff because of evidence presented at an internal hearing that plaintiff misused his intermittent FMLA leave and took FMLA on days he did not legitimately need it. The Court held that this was sufficient to establish a legitimate, nondiscriminatory reason for plaintiff's termination. The Court further determined that plaintiff did not meet his burden of offering evidence to demonstrate that this reason was pretextual. For that reason, the court granted summary judgment on plaintiff's retaliation claim.

Summarized elsewhere

***Brown v. Chicago Transit Auth.*, 2025 WL 964540 (N.D. Ill. Mar. 31, 2025)**

***Collins v. City of Lowell*, 2025 WL 1265865 (W.D. Ark., May 1, 2025)**

***Conklin v. ABEC, Inc.*, 2025 WL 1208904 (E.D. Pa. Apr. 25, 2025)**

***Divkovic v. Hershey Co.*, 2025 WL 887770 (M.D. Pa. Mar. 21, 2025)**

***Duncan v. Kearfott Corp.*, 2025 WL 1752322 (D.N.J. Jun. 25, 2025)**

***Foreman v. River City Mortgage, LLC*, 2025 WL 2522945 (S.D. Ohio Sept. 2, 2025)**

***Gargas v. Estes Express Lines, Inc.*, 2025 WL 860034 (N.D. Ohio Mar. 19, 2025)**

***Gilbert v. City of Newport*, 2024 WL 5046712 (E.D. Tenn. Dec. 9, 2024)**

***Goodwin v. University of Pennsylvania*, 2024 WL 4678877 (3d Cir. Nov. 5, 2024)**

***Hempen v. City of Nashville, Illinois*, 2025 WL 587744 (S.D. Ill. Feb. 24, 2025)**

***Henderson v. Geico*, 2024 WL 4694011 (E.D.N.Y. Nov. 6, 2024)**

***Little v. Gray Media Group, Inc.*, 790 F.Supp.3d 1195 (D. Kan. 2025)**

***Lutz v. Mario Sinacola & Sons Excavating, Inc.*, 2024 WL 4799471 (5th Cir. Nov. 15, 2024)**

***Mahran v. County of Cook Illinois*, 2025 WL 3004600 (N.D. Ill. Oct. 27, 2025)**

***Mehta v. DLA Piper LLP*, 2025 WL 2771659 (S.D. N.Y. Sept. 29, 2025)**

***Milner-Koonce v. Albany City Sch. Dist.*, 2025 WL 2781578 (N.D.N.Y. Sept. 30, 2025)**

***Pizza v. Toyota of Morristown*, 2024 WL 4948826 (D.N.J. Dec. 3, 2024)**

***Ramsey v. San Jacinto Coll. Dist.*, 2025 WL 1261027 (S.D. Tex. Apr. 30, 2025)**

***Salehian v. Nev. State Treasurer's Off.*, 2024 WL 4763689 (9th Cir. Nov. 13, 2024)**

***Thomas v. Amazon.com Services*, 2025 WL 2774123 (S.D. Tex. Sep. 28, 2025)**

***Valeri v. Twp. of Toms River*, 2024 WL 4903558 (D.N.J. Nov. 27, 2024)**

3. Pretext

***Aponte v. Philadelphia Gas Works*, 2025 WL 2785039 (E.D. Pa. Sept. 30, 2025)**

Plaintiff filed suit alleging, among other claims, FMLA retaliation. Plaintiff claimed her history of FMLA usage was a factor in two denied promotions. The court found that even though plaintiff could meet prima facie burden, she could not prove that defendant's legitimate, non-discriminatory reason — two more qualified candidates were selected for the promotions — was pretextual. Defendant's motion for summary judgment was granted. Appeal is pending at the Third Circuit.

***Creekmore v. Truist Bank*, 2025 WL 1748362 (E.D. Va. Jun. 24, 2025)**

Plaintiff, a Wealth Advisor, alleged her former employer, Truist Bank, retaliated against her after she took approved FMLA leave. Plaintiff alleged that after she took approved FMLA leave, defendant failed to pay her a bonus for her performance that year and placed her on "final warning" status. Defendant moved for summary judgment. The District Court for the Eastern District of Virginia first addressed the statute of limitations and found that defendant's denial of the performance bonus was within the statute of limitations because (1) a reasonable jury could find it was "inexorably linked" to the final warning (which occurred within the 2-year statute of limitations); and (2) defendant's policies prohibiting FMLA-related retaliation proved defendant knew that retaliation for taking FLMA leave is prohibited, and therefore, the conduct was willful. Therefore, the Court denied summary judgment on the statute of limitations issues.

Next, the Court addressed plaintiff's retaliation claim. Plaintiff argued, and the court agreed, that the close temporal proximity between the FMLA leave and the adverse actions demonstrated causation. Defendant argued, however, that it had a legitimate, nondiscriminatory reason for the adverse action. Evidence on the record illustrated plaintiff had a history of subpar performance. In response, plaintiff presented evidence to suggest defendant's reasons were pretextual. Plaintiff had negative performance reviews in another year that she did not take FMLA leave and received no discipline; it was only when she took the FMLA leave did defendant institute disciplinary action. Additionally, plaintiff presented evidence that, though she was not excelling at her job, she was performing adequately. Plaintiff's performance reviews were mixed, with some shortly before her discipline indicating that she was even making progress. The court ultimately found that a reasonable jury, taking the "historical background" of defendant's decision into account, could find that plaintiff's job performance was not the real reason for the disciplinary action.

Finally, the court addressed the issue of damages. The court rejected plaintiff's request for the recovery of bonuses that she did not receive because defendant could show plaintiff failed to satisfy the eligibility conditions to receive the bonuses (i.e., she did not sign the required Garden Leave and Non-Solicitation agreements). Additionally, defendant argued plaintiff may not recover consequential damages related to her demotion, relying on an unpublished Fourth Circuit decision that held consequential damages were unavailable for FMLA cases. The Court rejected defendant's argument, finding that under the Supreme Court's decision in *Ragsdale v. Wolverine World Wide, Inc.*, 535 U.S. 81, 87 (2002), consequential damages may be appropriate in FMLA retaliation cases. Therefore, the court denied in part and granted in part defendant's motion for summary judgment.

***Game v. Lafayette Glass Co., Inc.*, 2025 WL 2782850 (E.D.N.Y. Sept. 30, 2025)**

Plaintiff brought suit alleging FMLA retaliation and interference. Plaintiff moved for summary judgment on her claim that defendants directly interfered with her right to be reinstated following protected leave and that the evidence shows she was terminated because she sought to take FMLA leave to care for her newborn child. Defendants filed a cross-motion for summary judgment asserting that the termination decision was made prior to defendants learning about plaintiff's pregnancy and was based on bona fide business decisions due to planned downsizing of its workforce.

In assessing both claims, the Court reasoned that plaintiff was entitled to be restored to either the position of employment she held when her leave commenced or an equivalent position and that by denying her reinstatement to her position upon return from her leave, she was denied the benefits to which she was entitled under the FMLA. In responding to defendants' argument about downsizing as a legitimate non-discriminatory motive, the court highlighted factual issues from which a jury could conclude that the proffered reason was pretext, and instead plaintiff being out on leave was a factor that contributed to the decision not to reinstate her. Specifically, the Court highlighted 1) the timing of plaintiff's termination days before she was to return from leave, and 2) defendant's termination letter, which stated that plaintiff's role and workload were reviewed during her maternity leave and defendant determined that current staff members could coordinate plaintiff's work and their regular duties resulting in the elimination of her position.

The Court held that there were genuine disputes of material fact and credibility determinations to be made by a jury. The same analysis was applied to Plaintiff's retaliation claim. Consequently, both summary judgment motions were denied.

***Kendrick v. Zwicker & Associates, P.C.*, 2025 WL 2793751 (D. Mass. Sept. 30, 2025)**

Plaintiff was employed by defendant as a debt collector, and she alleged both FMLA retaliation and interference on the basis that several of her absences that formed the basis of her termination were protected by the FMLA. The district court granted summary judgment to defendant.

The court analyzed her claims under the *McDonnell Douglas* burden-shifting framework. The court assumed, without deciding, that plaintiff had established a *prima facie* case of retaliation. However, the court determined that plaintiff had failed to prove that defendant's proffered legitimate, non-discriminatory reason for firing plaintiff, namely, her repeated policy violations, was pretextual. Defendant had offered historical performance reviews, emails, and voice recordings as justification for the adverse actions it took against plaintiff, and plaintiff was unable to offer any evidence of pretext.

With regard to the interference claim, the court determined that plaintiff failed to establish that she was an "eligible employee" under the FMLA. Specifically, plaintiff failed to show the essential third element - that she gave adequate notice to her employer of her intention to take leave for a covered reason. Appeal is pending at the First Circuit.

***Kent v. Garden City of Georgia*, 2025 WL 588999 (S.D. Ga. Feb. 24, 2025)**

Plaintiff alleged that defendants discriminated and retaliated against him because he engaged in conduct protected by law, including the FMLA. Plaintiff worked as a police officer and advanced police officer for defendant. Between August 2020 and March 2022, plaintiff suffered two separate off-the-job injuries and went on two corresponding periods of FMLA leave. Defendants claimed that plaintiff exhibited clear signs of physical distress and immobility stemming from his quadricep injury from the time of his March 23 return until his eventual termination. On May 19, 2022, roughly two months after Plaintiff's March 23 return, the Department administered its annual "range qualification day." Plaintiff attempted the course twice, but did not pass. After this qualification day performance, defendants determined that plaintiff was not fit for duty.

Plaintiff alleged that Defendants violated the FMLA by retaliating against him for taking statutorily protected medical leave. Because Plaintiff supported his retaliation claims with only circumstantial evidence, the court applied the *McDonnell Douglas* burden-shifting framework to determine whether the claims survive summary judgment. The court assumed, without deciding that plaintiff had met his burden to establish a *prima facie* case of retaliation under the FMLA. The court determined that plaintiff could not demonstrate that defendants' proffered reason was pretextual. The only evidence that plaintiff could offer was temporal proximity, and the court reaffirmed that even though a plaintiff's temporal-proximity arguments may be enough to

establish a prima facie case of retaliation, temporal proximity by itself generally cannot prove that an employer's proffered reasons are pretextual. The Court explained that plaintiff has failed to show defendants' proffered reasons for terminating him —their belief that he was physically unable to perform and had violated Department policy—were false. Therefore, the court granted defendant's motion for summary judgment in full.

***Lutz v. Mario Sinacola & Sons Excavating, Inc.*, 2024 WL 4799471 (5th Cir. Nov. 15, 2024)**

Plaintiff sued defendant for FMLA interference when defendant terminated her employment while on FMLA leave. Defendant argued that it eliminated plaintiff's position as part of a reduction in force that was in response to the COVID-19 pandemic. The district court granted defendant's motion for summary judgment, finding the reduction in force to be a legitimate business reason to terminate plaintiff's employment. Plaintiff appealed the district court's decision.

First, the Fifth Circuit rejected plaintiff's argument that defendant was required to plead the COVID-19 reduction in force as an affirmative defense. Because defendant presented evidence that the reduction in force was a legitimate and non-discriminatory reason for plaintiff's termination, plaintiff then needed to demonstrate that the reduction in force was pretextual by presenting substantial evidence in support. The Fifth Circuit held that plaintiff did not demonstrate that defendant provided inconsistent explanations as to the reason for her termination, that her duties had not been reallocated such that she had been replaced, and that she did not provide evidence that she was clearly better qualified than other employees retained. Because plaintiff failed to provide evidence that defendant's reason for termination was pretextual, the court affirmed summary judgment on her interference claims.

***Maldonado v. Harris County, Tex.*, 2025 WL 2443389 (S. D. Tex. Aug. 25, 2025)**

Plaintiff sued defendants alleging defendants interfered with her right to reinstatement under the FMLA and retaliated against her for asserting her rights under the FMLA. Plaintiff fractured her ankle at home and could not walk or drive for about two months after surgery. She took two months of leave under the FMLA after her request to work at home was rejected. When she could drive and walk, she returned to work. However, defendant notified her that it would eliminate her position.

Defendant moved for summary judgment on both claims. The district court found that plaintiff had made a *prima facie* case of FMLA interference, but defendant provided a legitimate reason for the employment action. The court found that plaintiff could not demonstrate that defendant's reason was pretextual, and she submitted no evidence showing a connection between her disability and the decision to eliminate her position other than the timing of the action, which was not sufficient to meet her burden. Based on the evidence submitted, the court granted defendant's motion for summary judgment on the interference claim.

For the retaliation claim, the district court found that plaintiff could not establish a causal link between her taking leave and the elimination of the position and she did not show that she was treated less favorably than another similarly situated employee who did not take FMLA

leave. The court also granted defendant's motion for summary judgment on the FMLA retaliation claim.

***Mehta v. DLA Piper LLP*, 2025 WL 2771659 (S.D. N.Y. Sept. 29, 2025)**

Defendant law firm moved for summary judgment on claims by plaintiff, an attorney, that defendant engaged in FMLA interference and retaliation when it fired her two months after she told the firm she was pregnant. The district court denied the motion with respect to the FMLA claims.

Plaintiff joined defendant law firm in the fall of 2021 and for the next 11 months received raises, bonuses, and praise for her performance. In August 2022 plaintiff began informing some attorneys and human resources that she was pregnant. Despite a slow down in work in the department, plaintiff was surprised when two months later she met with an attorney supervisor and human resources, who informed her they were terminating her employment for "no longer being a fit" and not meeting the firm's standards, and cited instances dating back months as well as more recent issues with plaintiff's direct work with clients.

The parties disputed whether plaintiff's decision to take FMLA leave for her pregnancy played a role in the decision to fire her. The court denied the motion for summary judgment on both the interference and retaliation claims because defendant's stated reasons for terminating her employment were not consistent with the record, thereby creating sufficient evidence for a jury to conclude whether defendant terminated plaintiff for solely legitimate reasons.

***Mitchell v. Madison Dist. Pub. Schs.*, 2024 WL 101579 (M.D. Fla. Jan. 15, 2025)**

Plaintiff, a former bus driver for defendant school district, sued his employer for FMLA retaliation. Plaintiff alleged that defendant terminated his employment after he used FMLA leave related to a medical procedure.

The court granted defendant summary judgment because it found that plaintiff failed to present direct evidence of retaliatory animus and because plaintiff failed to demonstrate that defendant's proffered non-retaliatory reason for terminating plaintiff (that he repeatedly left students behind at the school) was pretext for unlawful retaliation. The court concluded that plaintiff failed to present direct evidence of FMLA retaliation because the evidence plaintiff proffered as direct evidence involved "false allegations" of insubordination and leaving students behind. These alleged statements did not contain expressions of anti-FMLA animus and would require inferences of pretext due to their temporal proximity to his termination. Thus, it did not constitute direct evidence.

The court also concluded that plaintiff failed to demonstrate pretext, even if there was no basis in fact for defendant's conclusion that plaintiff had left students behind because defendant had an "honest belief" that plaintiff had done so. Defendant's honest belief was based on the testimony of multiple students of different ages in different grades and school surveillance footage showing the bus leaving early. For these reasons, the court concluded that plaintiff failed to overcome defendant's invocation of the "honest belief rule," which provides that, in a pretext

analysis, when an employer reasonably and honestly relies on particularized facts in making an employment decision, it is entitled to summary judgment on pretext even if its conclusion is later shown to be "mistaken, foolish, trivial, or baseless."

***Porter v. Jackson Twp. Highway Dep't*, 2025 WL 1742934 (6th Cir. Jun. 24, 2025)**

Plaintiff brought an FMLA retaliation claim after he was terminated for violating his medical restrictions and lying about his disability status. Plaintiff injured his shoulder and ultimately exhausted his FMLA leave entitlement. He then returned from leave and sought light-duty work. Defendant denied his request for light duty and instead placed him on vacation leave followed by unpaid leave. Defendant heard that plaintiff was performing manual labor while plaintiff was off work and still under medical restrictions. Defendant, thus, hired a private investigator, who videotaped plaintiff performing manual labor in violation of his medical restrictions. Defendant terminated plaintiff for violating the terms of a collective bargaining agreement and defendant's personnel policies. The district court granted defendant summary judgment on plaintiff's FMLA retaliation claim, finding that plaintiff failed to establish any evidence of pretext.

The Sixth Circuit affirmed the lower court's decision. First, plaintiff argued that the work the private investigator observed him doing was within his restrictions and constituted light duty, and thus, defendant's reason for termination had "no basis in fact," constituting evidence of pretext. Plaintiff pointed out that the private investigator never actually weighed the equipment he was using when he was on leave, and thus, there was no basis to conclude that he was violating his medical restrictions. The court rejected this argument under the "honest-belief rule," finding there was no evidence that the employer's honest belief that plaintiff was violating his restrictions while on leave was unreasonable. Second, plaintiff argued that the employer's belief that he was violating his medical restrictions was "insufficient to motivate" the termination decision. But plaintiff failed to present any evidence that similarly situated employees outside of the protected class were treated better than him. The court, thus, upheld the lower court's summary judgment decision in favor of defendant.

***Thistlewaite v. Pace Air Freight, Inc.*, 2025 WL 2267756 (E.D. Ky. Aug. 7, 2025)**

Plaintiff, a truck driver, brought both FMLA retaliation and FMLA interference claims against his long-time employer. In ruling on defendant's motion for summary judgment, the district court assumed for purposes of the summary judgment that under the *McDonnell Douglas* burden-shifting analysis that plaintiff had established a prima facie case of FMLA interference and retaliation. The court next found that defendant had articulated a legitimate, nondiscriminatory reason for terminating plaintiff's employment based on an affidavit from defendant's chief financial officer stating plaintiff had failed to provide passwords and submitted false mileage reports. Plaintiff pointed to no evidence that controverted the fact that these two reasons given by defendant would be independently sufficient to justify plaintiff's termination.

Next, the court looked at whether plaintiff could establish pretext, which it noted could occur in three ways: (1) the employer's proffered reasons had no basis in fact; (2) the proffered reasons did not actually motivate the action; or (3) the proffered reasons were insufficient to

motivate the employer's action. Ultimately, pretext is a commonsense inquiry and summary judgment is properly granted to an employer if a jury could not reasonably doubt the employer's explanation, and the employer need only show they made a reasonably informed and considered decision.

There was no factual dispute plaintiff had not provided the passwords when asked and defendant employer established that it had reasonably determined plaintiff had submitted false mileage reports. The court also rejected plaintiff's arguments of pretext because plaintiff could not show that any other employees had engaged in "substantially identical" conduct and had not also been terminated. Accordingly, the court granted summary judgment in the employer's favor. Appeal is pending at the Sixth Circuit.

***Uttarwar v. Lazard Asset Mgmt. LLC*, 2025 WL 704278 (2d Cir. Mar. 5, 2025)**

Plaintiff appealed the New York district court's grant of summary judgment in favor of defendant to the U.S. Court of Appeals for the Second Circuit. Plaintiff brought fourteen causes of action against defendant, including a claim of retaliation for taking parental leave under the FMLA. At the time of his termination, plaintiff was employed by defendant as a Senior Vice President and Senior Trading and Technology Engineer.

The appellate court noted that summary judgment for defendants is proper "only if plaintiff cannot show that retaliation played any part in the employer's decisions." The court then found that plaintiff failed to raise a genuine dispute of material fact that defendants' nonretaliatory reasons for his termination were pretextual. Plaintiff argued that the temporal proximity between his protected FMLA leave and his termination supported an inference of retaliatory intent, but the court held that temporal proximity, alone, is insufficient at the pretext stage. Accordingly, the Second Circuit affirmed the District Court's granting of summary judgment for defendant on the FMLA retaliation claim.

***Watkins v. Mack Trucks, Inc.*, 2025 WL 2086107 (E.D. Pa. Jul. 24, 2025)**

Plaintiff brought suit alleging, *inter alia,* retaliation and interference under the FMLA. Defendant moved for summary judgment, which the district court denied due to genuine issues of material fact. When assessing plaintiff's claim of retaliation under the FMLA, the district court applied the *McDonnell-Douglas* burden-shifting framework. In denying defendant's motion for summary judgment, the district court found that plaintiff (1) engaged in protected activity by requesting FMLA leave, (2) suffered an adverse employment action in that she was terminated, and (3) twelve days between plaintiff's request for FMLA leave and her termination was a short enough time period to satisfy the causal connection element.

Defendant claimed that plaintiff had been terminated for violating its code of conduct and work rules through a confrontation with a coworker and by coming to work when suspended. The district court found that plaintiff satisfied her burden to establish pretext because the parties presented competing versions of events. Plaintiff denied calling her coworker a slur and countered that he had called her a derogatory name. She further claimed that no one could have corroborated the coworker's account because no one had been nearby to witness their interaction.

She also denied that she had ever actually been suspended and therefore did not violate any rules by coming to work. In light of the factual disputes concerning the events leading to plaintiff's termination, the district court denied defendant's motion for summary judgment.

***Wilkie v. Outokumpu Stainless USA, LLC*, 2024 WL 4828727 (S.D. Ala. Nov. 19, 2024)**

Plaintiff was employed as a shift coordinator at a stainless-steel manufacturer. For the entirety of his employment, he suffered from multiple physical disabilities as well as PTSD stemming from his military service, which his superiors all knew. Plaintiff informed defendant that he would need FMLA leave for upcoming surgeries but did not yet know the dates. The employer provided plaintiff with paperwork to request leave under the FMLA and asked him to complete it when he knew the timeframe for the requested leave. Shortly thereafter, and before plaintiff returned his completed request for FMLA leave, plaintiff was terminated for failing to follow defendant's safety protocols on two occasions. Plaintiff filed suit, alleging he was terminated for requesting FMLA leave, among other claims.

Both of plaintiff's claims under the FMLA failed because he could not establish that defendant's proffered legitimate reason for termination was pretext. Although plaintiff did not have to offer any facts concerning defendant's motivation to prevail on his FMLA interference claim, defendant defeated the interference claim by providing evidence that plaintiff would have been fired anyway. The district court granted defendant's motion for summary judgment.

Summarized elsewhere

***Beachner v. Howard Univ.*, 2025 WL 915573 (D.D.C. Mar. 25, 2025)**

***Birmingham v. Hyundai Motor Mfg. of Alabama, LLC*, 2025 WL 725734 (M.D. Ala. Mar. 6, 2025)**

***Brennan v. Five Below, Inc.*, 2025 WL 817597 (E.D. Pa. Mar. 13, 2025)**

***Collins v. City of Lowell*, 2025 WL 1265865 (W.D. Ark., May 1, 2025)**

***Eck v. Walmart, Inc.*, 2024 WL 5159886 (E.D. Pa. Dec. 18, 2024)**

***Fisher v. Boeing Co.*, 2025 WL 888491 (E.D. Pa. Mar. 21, 2025)**

***Gargas v. Estes Express Lines, Inc.*, 2025 WL 860034 (N.D. Ohio Mar. 19, 2025)**

***Gilbert v. City of Newport*, 2024 WL 5046712 (E.D. Tenn. Dec. 9, 2024)**

***Gipson v. Cincinnati Children's Hosp. Med. Ctr.*, 2025 WL 1557950 (S.D. Ohio Jun. 2, 2025)**

***Goodwin v. University of Pennsylvania*, 2024 WL 4678877 (3d Cir. Nov. 5, 2024)**

***Houdeshell v. Council on Rural Serv. Programs, Inc.*, 2024 WL 4817439 (S.D. Ohio Nov. 18, 2024)**

***Lindley v. N. Mississippi Med. Ctr., Inc.*, 2025 WL 1069946 (N.D. Miss. Apr. 9, 2025)**

***McDonald v. Metro. Nashville Airport Auth.*, 2025 WL 419356 (M.D. Tenn. Feb. 6, 2025)**

***McNutt v. Myers-Holum, Inc.*, 2025 WL 462298 (S.D Ind. Feb. 11, 2025)**

***Mook v. City of Martinsville, Va.*, 2025 WL 1589282 (W.D. Va. Jun. 5, 2025)**

***Naranjo v. United Airlines, Inc.*, 2025 WL 2778504 (D.N.J. Sept. 30, 2025)**

***Paterakos v. City of Chicago*, 147 F.4th 787 (7th Cir. 2025)**

***Peters v. Se. Arkansas Behav. Healthcare Sys., Inc.*, 2025 WL 623642 (E.D. Ark. Feb. 26, 2025), aff'd, 2025 WL 2846439 (8th Cir. Oct. 8, 2025)**

***Rees v. Newcomer Funeral Serv. Grp., Inc.*, 2025 WL 1951509 (S.D. Ohio Jul. 16, 2025)**

***Rheem v. UPMC Pinnacle Hosps.*, 2025 WL 3008146 (M.D. Pa. Oct. 27, 2025)**

***Ricciardo v. NYU Hosps. Ctr.*, 2025 WL 2208371 (E.D.N.Y. Aug. 4, 2025)**

***Shay v. Homitz*, 2025 WL 1550099 (E.D. Pa. May 30, 2025)**

***Simonton v. Houston Methodist Continuing Care Hosp.*, 2025 WL 174023 (S.D. Tex. Jun. 9, 2025), adopted by 2025 WL 1745129 (S.D. Tex. Jun. 24, 2025)**

***Thomas v. United States Postal Serv.*, 2024 WL 5047461 (E.D. Mich. Dec. 9, 2024)**

***Williams v. UAB Hosp. Mgmt., LLC*, 2025 WL 2810010 (N.D. Ala. Sept. 30, 2025)**

a. Timing

***El-Bash v. Southern Ohio Med. Ctr. Med. Care Foundation, Inc.*, 2024 WL 4767049 (S.D. Ohio Nov. 13, 2024)**

Plaintiff surgeon claimed defendant hospital interfered with his FMLA rights by failing to reinstate him following FMLA leave and terminating him when he requested future intermittent FMLA leave. Plaintiff also claimed defendant terminated him in retaliation for requesting FMLA leave. The district court granted summary judgment on the FMLA interference claims but denied summary judgment on the FMLA retaliation claim.

Plaintiff's interference claim, which was based on a failure to reinstate, failed because plaintiff had returned to his regular position following the end of his approved FMLA leave. Plaintiff's interference claim for denial of his intermittent FMLA leave request also failed because it was undisputed that plaintiff did not submit a request for intermittent leave until after he had been given his termination notice. Plaintiff's FMLA retaliation claim survived, and the court held that the timing of the termination decision was evidence of pretext, as defendant had made the decision while plaintiff was on FMLA leave and gave notice of his termination within days of his return. The court also found plaintiff had presented evidence of pretext through evidence that performance failures alleged in the termination report were noted months earlier, and defendant had seemed unconcerned about them until he requested FMLA leave, and

evidence that a colleague was given more time than plaintiff to achieve productivity requirements.

***Way v. City of Missouri City*, 133 F.4th 509 (5th Cir. 2025)**

Plaintiff sued her former employer alleging claims under the FMLA, among others. The district court granted defendant's motion for summary judgment on all claims.

Regarding her FMLA interference claim, the only element of the prima facie case that was in dispute was whether the employer denied plaintiff FMLA benefits to which she was entitled. Plaintiff claims that defendant incorrectly identified her FMLA leave as administrative which resulted in a lack of proper notice regarding her salary decrease. However, this would not have affected plaintiff's pay because both administrative leave and FMLA leave were unpaid. Accordingly, the Fifth Circuit affirmed summary judgment with respect to plaintiff's FMLA interference claim.

Regarding plaintiff's FMLA retaliation claim, plaintiff relied on the "cat's paw" theory of liability, under which an employer may still be liable even if the formal decisionmaker did not act with retaliatory intent. To prevail under this theory, plaintiff must show that her supervisor was motivated by retaliatory animus, took acts intended to cause an adverse employment action, and those acts were a but-for cause of her termination.

Defendant claimed plaintiff's employment was terminated due to budget cuts. However, the Fifth Circuit found this justification was questionable enough to remand the case. The legal department's budget was consistent with comparable entities, and the timing raised doubts. Plaintiff's employment was terminated in January 2021, just one month after returning from FMLA leave, despite budget concerns being raised as early as August 2019. Although the City Council formally eliminated the position, the termination letter cited a report from plaintiff's supervisor, stating the role "'was not a practical application of the City's resources.'" A jury could reasonably infer retaliatory intent from the supervisor, who previously sought to demote plaintiff after she disclosed mental health struggles in 2019. There was also evidence of a broader pattern of harassment and bullying. Accordingly, the court reversed the summary judgment with respect to plaintiff's FMLA retaliation claim.

Summarized elsewhere

***Adefurin v. Meharry Med. Coll.*, 2025 WL 1570978 (M.D. Tenn. Jun. 3, 2025)**

***Foreman v. River City Mortgage, LLC*, 2025 WL 2522945 (S.D. Ohio Sept. 2, 2025)**

***Haynes v. City of New York*, 2025 WL 946089 (S.D.N.Y. Mar. 27, 2025)**

***Jenkins v. Cornerstone Relocation Group, LLC*, 2025 WL 360553 (D.N.J. Jan. 31, 2025)**

***Papczun v. Nuco Education Corp.*, 2025 WL 1769745 (N.D. Ohio, Jun. 26, 2025)**

***Ricciardo v. NYU Hosps. Ctr.*, 2025 WL 2208371 (E.D.N.Y. Aug. 4, 2025)**

b. Statements and Stray Remarks

***Fagalnifin v. First Technology Fed. Credit Union*, 2025 WL 1735386 (E.D. Cal. Jun. 23, 2025)**

Plaintiff credit union employee alleged claims of FMLA interference and retaliation. Both claims were dismissed by the district court on summary judgment. Plaintiff's interference claim arose out of defendant's denial of her request for FMLA leave to stay home with her daughter during the COVID-19 epidemic when schools were closed. The court noted that plaintiff provided no evidence demonstrating that she could satisfy any of the FMLA's statutory provisions entitling her to leave. The court further found that a temporary statutory expansion of the FMLA, which covered employees who took leave because their children's schools were closed due to the pandemic, did not apply because the temporary expansions only covered employers with fewer than 500 employees, and defendant had 1,650 employees.

Plaintiff's retaliation claim also failed. Plaintiff claimed that when she had taken approved FMLA leave in 2019, another employee had made "snide comments" about her use of leave. The court noted that "mere threats and harsh words" are not enough to constitute an adverse employment action. The court also found that no reasonable trier of fact would find a causal connection between her use of FMLA leave in 2019 and a negative performance review in 2021, which was not discussed with plaintiff because plaintiff had already resigned from her job.

Summarized elsewhere

***Priest v. Walmart Stores E., LP*, 2025 WL 1107841 (S.D. Miss Apr. 14, 2025)**

***Way v. City of Missouri City*, 133 F.4th 509 (5th Cir. 2025)**

4. Comparative Treatment

Summarized elsewhere

***Farrell v. Mon Health Care, Inc.*, 2025 WL 2740394 (N.D.W. Va. Sept. 25, 2025)**

***Porter v. Jackson Twp. Highway Dep't*, 2025 WL 1742934 (6th Cir. Jun. 24, 2025)**

***Priest v. Walmart Stores E., LP*, 2025 WL 1107841 (S.D. Miss Apr. 14, 2025)**

***Simpson v. CSL Plasma*, 2025 WL 1167565 (S.D. Ala. Apr. 22, 2025)**

C. Mixed Motive

***Teal v. Georgia-Pacific Wood Products, LLC*, 757 F. Supp. 3d 709 (E.D. Tex. 2024)**

Plaintiff was a long-term employee of defendant, who was injured on the job and was unable to work as a result and went on FMLA and state-equivalent medical leave under Georgia law. Plaintiff exhausted her FMLA leave and was approved for short-term disability benefits. Plaintiff was eventually terminated. Among other claims, plaintiff alleged that defendant interfered with her rights under the FMLA and retaliated against her for exercising those FMLA rights. The employer moved for summary judgment on both claims. Defendant argued plaintiff

received multiple leaves of absence and the termination of her employment occurred after her FMLA leave was exhausted.

As to the interference claim, the district court noted a prima facie case requires a showing of eligibility and entitlement to leave, that proper notice of an intent to take FMLA leave was given, and the employer denied the employee benefits under the FMLA. Once a prima facie case is set forth, the employer can articulate a legitimate non-discriminatory reason for the employment action at issue, which a plaintiff can then overcome by providing a preponderance of the evidence that the employer's reason was pretext for discrimination. Under Fifth Circuit precedent, however, an employer can be "estopped" from arguing an employee was ineligible for FMLA leave where the employer made representations to the employee during their employment that they were eligible. Plaintiff argued that defendant should be estopped from arguing plaintiff was ineligible for FMLA leave at any point. The district court closely examined the evidence showing the communications to and determinations made about plaintiff's FMLA eligibility. Ultimately, the court found there had been no misrepresentations about eligibility upon which plaintiff could reasonably rely, thus allowing the employer to argue ineligibility. As to eligibility itself, the district court found that plaintiff had exhausted all FMLA leave, had not become eligible when she requested FMLA leave again, and thus granted summary judgment in employer's favor on plaintiff's interference claim.

As to FMLA retaliation, the district court noted that a mixed-motive framework applied, and determined that plaintiff had provided sufficient evidence to create a genuine issue of material fact as to the reason for the termination, as all that was needed was to show that the protected activity and adverse employment were not completely unrelated. Accordingly, the district court denied summary judgment on the retaliation claim.

Summarized elsewhere

***Cox v. Mignon Faget, Ltd.*, 2025 WL 1810160 (Ed. La. Jul. 1, 2025)**

D. Pattern of Practice

Summarized elsewhere

***Mendez v. Logan General Hosp.*, 2025 WL 2798507 (S.D.W.V. Sept. 26, 2025)**

CHAPTER 11.

ENFORCEMENT, REMEDIES, AND OTHER LITIGATION ISSUES

I. Overview

II. Enforcement Alternatives

A. Civil Actions

1. Who Can Bring a Civil Action

a. Secretary

b. Employees

c. Class Actions

2. Possible Defendants

***Monbelly v. Allied Universal Prot. Servs.*, 2025 WL 3048925 (W.D. La. Oct. 31, 2025)**

Plaintiff, a security professional for defendant employer, sued his employer and several individual defendants alleging claims of retaliation and interference under the FMLA. As to his retaliation claim, plaintiff alleged defendant employer took several adverse actions—such as cutting his hours and reinstating them in clustered shifts that aggravated his medical condition, spreading false narratives about him, pressuring him to take leave, requiring a drug test, denying a raise, and concealing his performance review—after he asserted his rights under the FMLA. Although plaintiff's complaint lacked specifics about when leave was requested or denied, the district court in Louisiana determined the allegations were sufficient to state a plausible claim that plaintiff was retaliated against for taking forced leave. Similarly, the court held that plaintiff's allegations that he was denied his FMLA leave request upon returning from the forced leave, was provided sham job offers, and was denied reinstatement following the forced leave were enough to support an FMLA interference claim, which guarantees an employee's reinstatement to the same or an equivalent position. The court allowed plaintiff's retaliation and interference claims against defendant employer to proceed.

However, the court dismissed all FMLA claims against the individual defendants, holding they could not be held personally liable because they did not qualify as "employers" under the statute. Applying the Fifth Circuit's economic reality test—borrowed from the FLSA—the court examined whether the individual defendants had authority to hire or fire employees, control work schedules or conditions of employment, determine pay, or maintain employment records. The court determined plaintiff's allegations of harassment and management ratification were conclusory and insufficient to establish such authority. The court noted that the absence of all four factors is fatal under the test, and here, none were adequately alleged. Consequently, the individual defendants were dismissed from the case with prejudice.

Summarized elsewhere

***Robbins v. Candy Digital Inc.*, 2024 WL 5056429 (S.D.N.Y. Dec. 9, 2024)**

3. Jurisdiction

B. Arbitration

Summarized elsewhere

***DiLorenzo v. J. Crew Group, LLC*, 2025 WL 753948 (S.D.N.Y. Mar. 10, 2025)**

1. Introduction

2. Individual or Employer-Promulgated Arbitration Agreements and Plans

3. Arbitration Under a Collective Bargaining Agreement

III. Remedies

A. Damages

Summarized elsewhere

***Smith v. City of Warren*, 2025 WL 679058 (W.D. Ark., Mar. 3, 2025)**

1. Denied or Lost Compensation

***Cox v. Mignon Faget, Ltd.*, 2025 WL 1810160 (E.D. La. Jul. 1, 2025)**

Plaintiff was terminated one week after requesting FMLA leave for childbirth and recovery. Plaintiff filed suit, alleging several causes of action including FMLA interference and retaliation. After a four-day trial, a jury returned a verdict in favor of plaintiff on all her claims but reduced her backpay award for failure to mitigate damages. Defendant subsequently filed a renewed motion for judgment as a matter of law.

Defendant challenged the jury's verdict on plaintiff's FMLA retaliation and interference claims, first arguing that plaintiff failed to rebut each of defendant's proffered legitimate, nondiscriminatory reasons for her termination. The Eastern District of Louisiana swiftly rejected the argument, finding that because this was a "mixed motive" case, the traditional *McDonnell Douglas* framework did not apply; therefore, plaintiff was not required to rebut each and every one of defendant's proffered reasons for termination. Additionally, defendant argued plaintiff was not entitled to FMLA leave at the time she requested it, because defendant had already decided to terminate her employment for legitimate business reasons, and therefore, defendant did not interfere with plaintiff's FMLA leave. The court also rejected this argument, finding that there was sufficient evidence to support the jury's verdict that plaintiff's termination was, at least in part, for a discriminatory reason.

Finally, defendant argued that plaintiff was not entitled to backpay, or that the backpay award should be reduced, because plaintiff failed to mitigate her damages. The court, though rejecting the argument that no backpay should be granted, did agree that it should be reduced. Plaintiff made reasonable efforts to look for employment for ten weeks, after which she stopped applying for jobs out of concern she would receive a negative reference from defendant. The court, rejecting plaintiff's reasoning, found that she failed to mitigate her damages beyond the ten weeks of active job searching, and therefore reduced the backpay to that time frame. Because the jury's award embraced a period of time beyond those ten weeks, the court's order further reduced the award.

Summarized elsewhere

***Ramirez v. Wynn L.V., LLC*, 2025 WL 2161138 (D. Nev. Jul. 29, 2025)**

***Thomas v. United States Postal Serv.*, 2024 WL 5047461 (E.D. Mich. Dec. 9, 2024)**

2. Actual Monetary Losses

***Lacy v. Kohl's Corp.*, 2025 WL 894443 (E.D. Wis. Mar. 24, 2025)**

A department store employee brought suit in the District Court for the Eastern District of Wisconsin against her employer seeking damages for retaliation and interference under the FMLA. The court granted defendant's motion for summary judgment, holding that plaintiff did not suffer any compensable damages and that the undisputed facts establish that plaintiff had violated defendant's leave policies and was subject to termination regardless of her FMLA rights.

In February 2022 plaintiff properly obtained and took FMLA leave intermittently through September 2022 by communicating through defendant's required third-party service, which handled all FMLA claims. In September 2022, plaintiff continued to catalogue leave time in defendant's system as FMLA leave despite not having the required approval from the third-party service. In December 2022 plaintiff contacted the third-party service to have her intermittent FMLA renewed but continued not notifying the third-party service of her absences—a violation of defendant's policy. In February 2023 plaintiff's leave time was audited and defendant discovered that plaintiff had improperly catalogued time as FMLA leave without the required third-party authorization. This time should have been catalogued as unplanned absence, and the amount plaintiff accrued far exceeded defendant's limit on unplanned absence. This resulted in plaintiff's automatic termination—under defendant's policy, any employee whose unplanned absence time exceeded the allotted amount voluntarily resigned from their position.

The court granted summary judgment to defendant because plaintiff was unable to establish damages under Section 2617 which defeated both plaintiff's claim for retaliation and plaintiff's claim for interference. Plaintiff argued that some of her unplanned absences were approved personal leave, plaintiff was not able to provide affirmative evidence that she had been granted personal leave. Defendant, on the contrary, provided affirmative evidence that plaintiff's supervisor had told plaintiff to use FMLA or unexcused absence for her leave. Plaintiff's arguments that the unexcused absence policy was ever evolving and conflicting, that the audit of her hours was retaliation for taking FMLA leave, that the date listed on her termination letter violated her FMLA rights, and that defendant's affidavit was a sham were all dismissed by the court because plaintiff could not show that she suffered compensable damages, and therefore, summary judgment was appropriate.

***Ramirez v. Wynn L.V., LLC*, 2025 WL 2161138 (D. Nev. Jul. 29, 2025)**

Plaintiff brought suit in the United States District Court of Nevada alleging FMLA interference, among other claims. A jury awarded plaintiff lost wages and benefits on her FMLA claim. Defendant moved for remittitur or a new trial on damages, moved for sanctions against plaintiff's counsel, and renewed its motion for judgment as a matter of law on the FMLA claim. Plaintiff moved for equitable relief, statutory damages, attorney's fees, and costs.

The court found that, based upon the amount awarded, the jury could not have taken into account earnings plaintiff earned at other jobs during the relevant time period, which should have offset the earnings she lost in the calculation for damages. Furthermore, since there was no evidence of compensable lost benefits to account for an increased jury award, the court granted defendant's motion for a new trial on damages unless plaintiff agreed to remittitur in the amount of the lost compensation minus the earnings she earned at other jobs during the relevant period.

The court denied defendant's renewed motion for judgment as a matter of law on the FMLA claim, finding that the jury could have reasonably believed that plaintiff made short walks to various establishments to change out her painful shoes and to take her medication, but still be unable to perform her essential job functions. However, the court also found that defendant acted in good faith in its termination, noting that defendant had previously honored plaintiff's FMLA leave requests without discipline and permitted her to take additional leave prior to suspension, and therefore denied plaintiff's claim for liquidated damages. The court also denied plaintiff equitable relief, reasoning that eight years had passed since the termination, the parties had engaged in extensive litigation, plaintiff had already found alternative employment, and plaintiff had not sought reinstatement in any of her damages disclosure until only a few months before trial.

Finally, the court awarded attorney's fees under the FMLA's fee-shifting provisions, but less than plaintiff requested. The court concluded that the requested rates of plaintiff's attorneys was too high compared to prevailing rates in the locality and noted that numerous time records contained duplicative unnecessary work, including time entries for speaking to the media. The court found, however, that the proposed 80% reduction by defendant was too high, reasoning that plaintiff's unsuccessful claims were largely related to her successful one and that the court must assess the overall relief obtained in relation to the hours reasonably expended on the litigation. The court therefore reduced the amount of attorney's fees sought by 25%.

Summarized elsewhere

***Adams v. Columbia/HCA of New Orleans, Inc.*, 2025 WL 1937294 (5th Cir. Jul. 15, 2025)**

3. Interest

***Mooney v. Roller Bearing Co. of Am. Inc.*, 138 F.4th 1349 (9th Cir. 2025)**

Plaintiff sued his former employer under both the FMLA and the Washington Family and Medical Leave Act (WFMLA). Following a trial, plaintiff received an award of compensatory damages, which did not distinguish between amounts attributable to the federal and state claims. The district court in Washington used a fluctuating federal rate to determine pre-judgment interest on the award, instead of a higher state rate.

On appeal by both parties, the Ninth Circuit appellate court held that when a judgment is based equally on both state and federal claims, the district court has discretion to select a proper prejudgment interest rate. The Ninth Circuit found that the district court had appropriately exercised its discretion in applying the fluctuating federal rate as the district court found that it was the "most accurate way to compensate [plaintiff] for the lost use of his wages between his first lost paycheck and the jury's verdict."

Summarized elsewhere

***Ramkissoon v. Farmington Care Ctr., LLC*, 2025 WL 1742968, (Conn. Super. Ct. Jun. 16, 2025)**

4. Liquidated Damages

***Cox v. Mignon Faget, Ltd.*, 2025 WL 1888676 (E.D. La. Jul. 8, 2025)**

Plaintiff moved for liquidated damages pursuant to the FMLA, 29 U.S.C. § 2617(a)(1)(A)(iii), after a jury returned a verdict in favor of plaintiff on all claims. Defendant asserted the good faith defense, arguing that it acted in good faith because the company's CFO consulted legal counsel during the relevant time period. The Eastern District of Louisiana, however, rejected this argument, finding that consulting with counsel in itself does not establish defendant acted in good faith. Defendant also contended it terminated plaintiff's employment for legitimate business reasons, therefore it did so in good faith. Again, the court quickly disposed of this argument, finding that the jury, and the court, had previously found that there was substantial evidence that defendant terminated plaintiff in retaliation for exercising her FMLA rights.

Additionally, defendant argued that plaintiff was not entitled to recover liquidated damages under the FMLA *and* punitive damages in connection with her Title VII claim for pregnancy discrimination. Defendant, however, produced no authority to support this contention, and the court found that termination "incurred several distinct harms," which are reflected in the different awards. As a result, the awards did not constitute an "impermissible double recovery."

Finally, defendant argued that because plaintiff failed to mitigate her backpay damages, she should not be awarded liquidated damages. Because the court already reduced plaintiff's backpay award accordingly, it found the mitigation inquiry "immaterial" to the issue of liquidated damages. *Id.* Therefore, rejecting all of defendant's arguments, the court awarded plaintiff liquidated damages plus interest at the federal prime rate.

Summarized elsewhere

***Ramkissoon v. Farmington Care Ctr.*, LLC, 2025 WL 1742968, (Conn. Super. Ct. Jun. 16, 2025)**

a. Award

***Martin v. Penske Logistics, LLC*, 2025 WL 1223565 (N.D. Tex. Apr. 28, 2025)**

Plaintiff sued his former employer for FMLA interference after he was terminated for violating the company's attendance policy. The case proceeded to trial, and the jury found in plaintiff's favor. Following the verdict, plaintiff moved to amend the judgment to include liquidated damages, attorney's fees, costs, and pre-and post-judgment interest.

The court held that plaintiff was entitled to recover attorney's fees as the prevailing party. Applying the lodestar method, the court calculated fees by multiplying the number of hours reasonably expended by a reasonable hourly rate. A rate is reasonable if it is consistent with rates charged by attorneys with similar skill, experience, and reputation in the community. Although the court generally excludes time spent on unsuccessful claims, it does not deduct time spent on unsuccessful motions related to the successful claim. In this case, the court deducted time spent on an unsuccessful claim but approved the remainder of the time billed.

The court also awarded liquidated damages to plaintiffs, noting that under the FMLA, an employer is liable for such damages unless it can prove it acted in good faith and had reasonable grounds for believing its conduct was lawful. The court found that defendant failed to meet its burden to show that it took active steps to understand and comply with the FMLA, particularly because it did not investigate the basis for initially denying plaintiff's request to categorize his leave as FMLA-qualifying.

Additionally, the court awarded pre- and post-judgment interest pursuant to the FMLA and 28 U.S.C. § 1961. Plaintiff was also awarded litigation costs, which courts generally presume should be granted to the prevailing party.

Summarized elsewhere

***Ramkissoon v. Farmington Care Ctr., LLC*, 2025 WL 1742968, (Conn. Super. Ct. Jun. 16, 2025)**

b. Calculation

Summarized elsewhere

***Ramkissoon v. Farmington Care Ctr., LLC*, 2025 WL 1742968, (Conn. Super. Ct. Jun. 16, 2025)**

5. Other Damages

***Lopez v. Nutex Health*, 2024 WL 5159153 (W. D. Wa. Dec. 18, 2024)**

Plaintiff sued defendant alleging FMLA retaliation and hostile work environment. Plaintiff alleged that upon returning from FMLA leave she was harassed and subject to workload reductions. Defendant filed a partial motion to dismiss plaintiff's claims for emotional distress because those damages are not provided for under the FMLA. The court found that the Ninth Circuit had previously held that recovery of emotional distress damages are not allowed under the FMLA because the statute only provides for monetary loss and liquidated damages. Because the FMLA did not provide for emotional distress damages, the court granted the motion to dismiss.

Summarized elsewhere

***Martin v. Penske Logistics, LLC*, 2025 WL 1223565 (N.D. Tex. Apr. 28, 2025)**

B. Equitable Relief

1. Equitable Relief Available in Actions by the Secretary

2. Equitable Relief Available in all Actions

Summarized elsewhere

***Chapman-Pinto v. Amazon.com Services, LLC*, 2025 WL 42157 (D. Nev. Jan. 6, 2025)**

a. Reinstatement

Summarized elsewhere

***Ramirez v. Wynn L.V., LLC*, 2025 WL 2161138 (D. Nev. Jul. 29, 2025)**

b. Front Pay

c. Other Equitable Relief

Summarized elsewhere

***Creekmore v. Truist Bank*, 2025 WL 1748362 (E.D. Va. Jun. 24, 2025)**

C. Attorneys' Fees

Summarized elsewhere

***Martin v. Penske Logistics, LLC*, 2025 WL 1223565 (N.D. Tex. Apr. 28, 2025)**

***Ramirez v. Wynn L.V., LLC*, 2025 WL 2161138 (D. Nev. Jul. 29, 2025)**

***Ramkissoon v. Farmington Care Ctr., LLC*, 2025 WL 1742968, (Conn. Super. Ct. Jun. 16, 2025)**

D. Tax Consequences

IV. Other Litigation Issues

***Kammerer v. Univ. of Kansas*, 2024 WL 5135969 (D. Kan. Dec. 17, 2024)**

Plaintiff sued three defendants in the United States District Court for the District of Kansas for violations of the FMLA. After the court granted defendants' motion to dismiss, plaintiff moved for interlocutory appeal based on the question of whether a public employee was considered an employer under the FMLA. The court noted that circuit courts and the district itself were split as to whether public officials in their individual capacities were considered employers. The Sixth and Eleventh circuits held that they were not employers, but the Third, Fifth, and Eighth circuits held that they were. The Tenth Circuit, where this case was heard, had not yet decided the question.

The court considered the elements required to grant an interlocutory appeal. First, all parties and the court agreed that the question of whether public employees were employers under the FMLA was a controlling question of law. Second, the court held there was a substantial ground for difference of opinion on the issue based on the split between circuit courts and within the district itself. Finally, the court held that granting an interlocutory appeal of the issue would not ultimately terminate the litigation, nor eliminate a complex issue, nor reduce costs of discovery. Based on these elements, the court found interlocutory appeal of the FMLA issue to be inappropriate and denied plaintiff's motion.

***Mendez v. Logan General Hosp.*, 2025 WL 2798507 (S.D.W.V. Sept. 26, 2025)**

Plaintiff sued her former employer, a hospital, for FMLA interference and retaliation related to her demotion and subsequent termination. Plaintiff alleged these employment actions were due to absences and scheduling issues arising from her need to care for her ill husband. Defendant objected to two interrogatories on the ground that they exceeded the scope of appropriate discovery and that they sought information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). As the parties were not able to resolve this dispute, plaintiff filed a motion to compel defendant's answers to these interrogatories.

With respect to the interrogatory seeking comparator information for other employees who were subject to adverse actions after taking FMLA leave, the court ordered defendant to produce the records but ordered that defendant could redact personal identifying information in such records and that the records should be handled consistent with the protective order in the case. The court further granted plaintiff's motion to compel as to information regarding whether plaintiff requested accommodations or modifications to her schedule due to her husband's illness and how defendant responded to such requests. The court rejected defendant's argument that such information was outside the scope of discovery because, under the FMLA, employees are not required to expressly assert rights under the statute or even mention the FMLA but may only state that leave is needed. For that reason, plaintiff was not required to explicitly notify defendant that her requests for schedule modifications were related to the FMLA, and whether defendant classified the request as such was not relevant to the information's discoverability.

The Court denied plaintiff's request for fees, as the parties' discovery disputes are among the types of issues about which reasonable people could genuinely differ.

***Sexton v. Cmty. Life Team, Inc.*, 2024 WL 4905976 (M.D. Pa. Nov. 27, 2024)**

Plaintiff, an employee, brought suit against her former employer in the United States District Court for the Middle District of Pennsylvania for, inter alia, FMLA retaliation. Defendant filed a motion for summary judgment, which the court denied. Defendant then filed a motion for reconsideration, arguing the court relied on errors of fact and law in denying summary judgment. The court denied the motion, finding that alleged factual errors did not justify reconsideration.

On its motion for reconsideration, defendant first argued that the court relied on a factual error regarding defendant's proffered reason for terminating plaintiff. When determining summary judgment, the court found that a comment made by a main decision-maker of plaintiff's termination called into question the proffered reason for termination. Defendant claimed the comment was actually made by someone else, the HR director. However, the court found this factual error did not impact the court's decision, because the HR director was still a joint decision-maker involved in plaintiff's termination. Even if true, defendant's alleged factual error did not warrant reconsideration.

Second, defendant argued that the court relied on a factual error by stating that plaintiff was terminated while on FMLA leave, claiming that plaintiff was actually terminated while using short-term disability benefits. The court found this error, even if true, did not impact its decision because it relied on other facts in concluding there were genuine issues of material fact as to causation.

A. Pleadings

Summarized elsewhere

***Fox v. City of Hammond*, 2025 WL 1142395 (E.D. La. Apr. 17, 2025)**

***McCray v. Miami Dade County Public Schools*, 2024 WL 4867099 (11th Cir. 2024)**

***Rhino v. Fedex Ground Package Sys., Inc.*, 2025 WL 2773065 (E.D.N.Y. Sept. 9, 2025)**

B. Right to Jury Trial

C. Protections Afforded

D. Defenses

Summarized elsewhere

***Mook v. City of Martinsville, Va.*, 2025 WL 1589282 (W.D. Va. Jun. 5, 2025)**

1. Statute of Limitations

***Cole v. Illinois Dep't of Healthcare & Fam. Servs.*, 2025 WL 965716 (C.D. Ill. Mar. 31, 2025)**

Plaintiff sued defendant in the U.S. District Court for the Central District of Illinois, and defendant filed a motion to dismiss various claims including plaintiff's FMLA interference and retaliation claims. Defendant asserted that the claims should be dismissed due to the two-year statute of limitations on an FMLA claim, and plaintiff's failure to state an FMLA claim under which relief may be granted. Generally, a plaintiff must bring an FMLA claim no later than two years after the date of the last event constituting an alleged violation. However, the court declined to dismiss the claim because plaintiff was able to provide a timeline for her claim that extended into 2021, thus making her November 2022 complaint fall within the two-year statute of limitations. With respect to the assertion that plaintiff had failed to state an FMLA claim under which relief could be granted, the court held that defendant's alleged behavior, such as harassing and taking disciplinary action against plaintiff when she attempted to provide documentation to take her FMLA leave, was sufficient to allege an FMLA retaliation claim.

***Kitani v. New York City Transit*, 2025 WL 459686 (S.D.N.Y. Feb. 11, 2025)**

Plaintiff, a civil engineer, brought an action for violations of the FMLA and state law for interfering with her protected leave and retaliating against her for the same. Plaintiff was diagnosed with chronic migraine disease and was granted intermittent FMLA leave for a 12-

month period in 2014. Plaintiff increased her use of intermittent FMLA leave in 2016 after applying for a reasonable accommodation. Defendant also had concerns that plaintiff was using her FMLA leave for non-covered reasons. In 2018 plaintiff's application for FMLA leave was denied because she had not worked the requisite number of hours in the previous year. In the following year, plaintiff had several unsubstantiated sick days for which she was unable or unwilling to provide documentation. Following several disciplinary actions for the unsubstantiated sick days plaintiff resigned and began working for a different employer. Plaintiff initially filed suit in 2019.

With regard to her interference claims plaintiff made four allegations: (1) that defendants did not submit her timesheets in 2016 and therefore she was subsequently denied continuous FMLA leave between July and September 2016; (2) that defendants provided her with ADA reasonable accommodation forms in February and October 2016 in order to pressure her to stop using FMLA leave; (3) that defendants excluded her from work assignments, training opportunities, and overtime work from February to October 2016; and (4) that defendants suspended her in January 2017 so that she would not qualify for FMLA leave in 2018. Regarding her retaliation claims, plaintiff made five allegations that defendants (1) assigned her to overnight shifts after she returned from continuous FMLA leave in September 2016; (2) marked her AWOL when she did not work the October 13, 2016 overnight shift due to health concerns; (3) directed her to report for an ability-to-perform assessment in January 2017; (4) failed to provide her with a form G-46 in connection with that assessment; and (5) initiated disciplinary charges against her on January 9, 2017.

The district court granted summary judgment to defendant, holding that because all the allegations were from 2016 and 2017, they were outside of the two-year statute of limitations for the FMLA. Additionally, the court held that the three-year statute of limitations did not apply merely because plaintiff alleged that the conduct was "willful." The court found that plaintiff had not set forth any evidence from which a reasonable jury could find that defendants knew their conduct was prohibited by the FMLA, or acted with reckless disregard of that fact, nor any evidence that would create a genuine dispute of material fact as to whether the other cited conduct from 2016 until January 2017 could be considered willful interference with or willful retaliation for her FMLA leave. Therefore, the court granted defendant's motion for summary judgment.

***Simon v. New York City Dept. of Educ.*, 2025 WL 2256593 (E.D. New York, Aug. 7, 2025)**

Plaintiff filed her complaint for FMLA interference and retaliation five years after her termination from defendant employer. Defendant moved to dismiss those claims and the district court granted defendant's motion. The court rejected plaintiff's argument that the continuing violation doctrine should apply because, unlike her related discrimination claims, there was no timely allegation to anchor the claims. The court also rejected plaintiff's equitable estoppel argument plaintiff did not contend that she delayed her filing in reliance on any misrepresentations made by defendants. Finally, the court held that plaintiff proffered no plausible reason for equitable tolling, such as claiming that she was unaware of the cause of action or that she recently learned new facts giving rise to the claim.

Summarized elsewhere

***Creekmore v. Truist Bank*, 2025 WL 1748362 (E.D. Va. Jun. 24, 2025)**

***Forrest v. Zeeco, Inc.*, 2025 WL 2715479 (N.D. Okla. Sept. 23, 2025)**

***Latham v. Brett/Robinson Corp.*, 2025 WL 1239908 (S.D. Ala. Apr. 30, 2025)**

a. General

Summarized elsewhere

***Thomas v. Amazon.com Services*, 2025 WL 2774123 (S.D. Tex. Sep. 28, 2025)**

***Valentine v. Riverside Radiology and Interventional Assocs., Inc.*, 2025 WL 90328 (S.D. Ohio, Jan. 14, 2025)**

b. Willful Violation

***Fox v. City of Hammond*, 2025 WL 1142395 (E.D. La. Apr. 17, 2025)**

Plaintiff, a police officer, sued defendant, the city where he was employed, in the District Court for the Eastern District of Louisiana, alleging various forms of employment discrimination, retaliation, and violations of the FMLA. Plaintiff was permitted to amend his complaint after failing to meet pleading standards. Defendant moved to dismiss plaintiff's second amended complaint, alleging plaintiff had failed to state a claim for relief under the FMLA, or in the alternative, that the claim was barred by the FMLA's 2-year statute of limitations.

The court considered whether the FMLA's typical 2-year statute of limitations or 3-year statute of limitations for willful violations should apply. The court noted that the FMLA itself does not provide a definition for "willful" but adopted a definition from the Fifth Circuit: conduct is willful under the FMLA when a plaintiff shows that the employer "either knew or showed reckless disregard for the matter of whether its conduct was prohibited by statute." Defendant contended that plaintiff did not sufficiently plead willfulness to trigger the longer statute of limitations to apply. Plaintiff argued he did sufficiently plead and that dismissal prior to discovery was premature and too extraordinary of a remedy, since willfulness is a fact-based inquiry.

The court agreed with plaintiff and determined that the question of willfulness should be addressed after an opportunity for discovery, not at the pleading stage.

***Latham v. Brett/Robinson Corp.*, 2025 WL 1239908 (S.D. Ala. Apr. 30, 2025)**

Plaintiff, a housekeeper, sued defendant, a vacation rental property corporation, alleging willful interference with FMLA rights, among other claims. On August 1, 2021, plaintiff was hospitalized with a serious medical condition. Due to hospitalization, plaintiff did not report to work from August 3–6. On August 6, plaintiff's mother notified defendant that plaintiff had

undergone surgery and would need four to six weeks for recovery. On August 12, 2021, defendant terminated plaintiff but stated plaintiff could reapply in the future. At the time of termination, plaintiff met the requirements to qualify for FMLA leave.

Plaintiff did not file a complaint until June 27, 2024. Thus, the standard two-year statute of limitations had expired and, in order to bring a claim, plaintiff needed to show defendant willfully interfered with FMLA rights. Defendant moved to dismiss. Noting the Eleventh Circuit had not established a standard for what constituted a willful violation of the FMLA, the magistrate judge applied a "knew or showed reckless disregard" standard. Because plaintiff had not alleged facts suggesting defendant had knowledge the leave qualified for protection under the FMLA, the magistrate determined plaintiff's claim was barred by the two-year statute of limitations. However, the District Court for the Southern District of Alabama declined to adopt the magistrate's report. Instead, the court held the six days between notification that plaintiff would need extended leave and plaintiff's termination were sufficient to make the claim of willfulness plausible on its face.

***Rhino v. Fedex Ground Package Sys., Inc.*, 2025 WL 2773065 (E.D.N.Y. Sept. 9, 2025)**

Plaintiff took FMLA leave after she suffered a knee injury. During her leave, defendant became aware of a social media post showing plaintiff riding a scooter while touring Washington, DC. Defendant then terminated plaintiff citing "falsification of records or leave misconduct/abuse." Plaintiff then sued defendant under the FMLA for interference and retaliation. Defendant moved to dismiss, which the district court granted.

The allegations made in plaintiff's complaint occurred more than two years after her discharge. To take advantage of the three-year statute of limitations applicable to willful FMLA violations, plaintiff argued she needed to plead only a general allegation of willfulness. The court disagreed, holding that plaintiff must plead facts showing the plausibility of her claim that defendant's conduct was willful. Willfulness requires demonstrating that defendant "knew or showed reckless disregard for the matter of whether its conduct was prohibited by the FMLA." Thus, plaintiff had to plead that defendant acted with some subjective awareness that its actions violated or could violate the FMLA. The court also found that plaintiff needed to plead that the decision makers lacked a legitimate non-retaliatory basis for terminating her employment or sufficient facts showing the retaliation claim was plausible on its face. Plaintiff had attached human resources records to her complaint which showed that defendant honestly believed plaintiff had violated company policy while on FMLA leave.

***Valentine v. Riverside Radiology and Interventional Assocs., Inc.*, 2025 WL 90328 (S.D. Ohio, Jan. 14, 2025)**

Plaintiff, a registered nurse, sued her former employer for retaliation and interference under the FMLA. Defendant moved to dismiss, arguing plaintiff's claims were barred by the 2-year statute of limitations and did not qualify for the 3-year period for willful violations. The court denied defendant's motion, finding plaintiff timely filed both claims.

Plaintiff took extensive FMLA leave throughout her employment for her autoimmune disease. After 2020, however, plaintiff continued to take time off for treatment but did not request FMLA leave, and defendant did not offer it to her. In 2021, plaintiff needed chemotherapy for her disease. Plaintiff consulted with human resources, who discouraged her from using FMLA leave but suggested using paid time off instead. Plaintiff then took paid time off to receive her treatments. Despite having no complaints regarding her performance, plaintiff was terminated on January 28, 2022. Plaintiff filed her claims on January 29, 2024. If the two-year statute applied, plaintiff's claim must have been filed two years after defendant discouraged her use of FMLA leave.

Plaintiff argued her FMLA interference claim should be governed by the three-year statute of limitations because defendant's violation was willful. While plaintiff's allegation alone was not sufficient to establish a willful violation, the circumstances indicated either that the human resources employee knew her conduct was prohibited by the FMLA, or that defendant acted with a reckless disregard for plaintiff's FMLA rights. Therefore, the court found that the three-year statute of limitations applied, and plaintiff's interference claim was timely filed.

The parties also disputed whether plaintiff's FMLA retaliation claim was governed by the two or three-year statute of limitations. The court determined it did not matter which statute governed because plaintiff filed her claim within two years since January 28, 2024 was a Sunday, and plaintiff filed her claim on the following Monday in accordance with Federal Rule of Civil Procedure 6(a)(1).

Summarized elsewhere

***Jiggetts v. Cipullo*, 774 F. Supp. 3d 168 (D.D.C. 2025)**

***Kitani v. New York City Transit*, 2025 WL 459686 (S.D.N.Y. Feb. 11, 2025)**

***Thomas v. Amazon.com Services*, 2025 WL 2774123 (S.D. Tex. Sep. 28, 2025)**

2. Sovereign Immunity

***Cote v. Rhode Island*, 2025 WL 691387 (D.R.I. Mar. 4, 2025)**

Plaintiff sued multiple defendants, including the State of Rhode Island, the Chief Justice of the Rhode Island Supreme Court, the Chief Judge of the Rhode Island District Court, among others, in their official capacities for violations of the self-care provision of the FMLA. Defendant filed a motion to dismiss. Plaintiff was deceased at the time the motion was heard.

The court discussed precedent from the First Circuit and the Supreme Court of the United States regarding Eleventh Amendment immunity, both holding that Congress has not yet abrogated state Eleventh Amendment immunity through its FMLA self-care provision. Following this precedent, the court determined plaintiff could not recover damages at law.

Plaintiff also could not recover in equity. Injunctive relief was futile due to plaintiff being deceased because plaintiff could not be reinstated or promoted. Additionally, the court held

declaratory relief would only function as a "run around" of the Eleventh Amendment and is not appropriate where its only use would be claim preclusion in future state-court cases.

The court granted defendants' motion to dismiss for lack of subject matter jurisdiction based on the states' immunity from suits seeking monetary damages under the FMLA.

***De La Torre v. Fink*, 2025 WL 460757 (D. Md. Feb. 11, 2025)**

Plaintiff, manager of the Enterprise Business Application Services Division within the National Institutes of Health, brought suit against defendant, Acting Secretary of the United States Department of Health and Human Services. Plaintiff alleged, among other claims, interference with the exercise of FMLA rights.

Defendant moved to dismiss, claiming sovereign immunity from the FMLA claim. The District Court for the District of Maryland agreed. Plaintiff did not contest being a civil service employee. Thus, any entitlement to FMLA leave fell under Title II, which does not expressly provide a private right of action against an employer for an FMLA violation. Since defendant had not waived immunity, the court granted defendant's motion to dismiss the FMLA claim.

***Texas A&M Univ. v. Snider*, 721 S.W.3d 607 (Tex. App. 2025)**

The employer, as a state actor, contested the trial court's jurisdiction in relation to an employee's FMLA claim, asserting it possessed Eleventh Amendment immunity for claims under the FMLA's self-care provisions. The court of appeals considered the pleadings and the relevant evidence using a summary judgment standard to determine if the district court had jurisdiction over the FMLA claim. First, the court of appeals determined there was a fact question as to whether the employee had taken leave under the FMLA. Second, the court considered the employer's argument that the leave was for self-care because it was for post-miscarriage care, IVF treatment, and pregnancy related conditions. The employee argued that the unborn child was covered under the FMLA and the care was for the unborn child and that family-care did not immunize the employer.

This presented a question of first impression in Texas – does the FMLA cover an unborn child? The family-care provision entitles employees leave to care for a son or daughter with a serious health condition. The FMLA does not expressly address if an unborn child falls within the scope of the definition of son or daughter. But the court of appeals did not answer the question, instead determining that the care at issue was for dealing with the employee's own pregnancy-related condition, which Supreme Court precedent recognized falls under the self-care provision, for which immunity attached to the employer.

Lastly, the court of appeals considered whether immunity attached to the employer for the employee's FMLA claim seeking equitable remedies. Generally, the court of appeals found that neither *Ex Parte Young* nor *ultra vires* exceptions to immunity could apply as an exception to the employer's immunity from suit. However, the court noted the employee indicated an intent to add individual employees acting in their official capacities to the lawsuit, and it could not consider whether immunity exceptions would apply to those individuals, as that issue was not

before the court and was accordingly premature. The court thus reversed the trial court's decision regarding jurisdiction, remanding the case to the trial court to conduct further proceedings consistent with the court of appeals' order.

***Williams v. Bd. of Trs. of Univ. of Alabama*, 128 F.4th 1208 (11th Cir. 2025)**

Plaintiff was employed with the University of Alabama when her adult daughter, a member of the Marine Corps, was allegedly sexually assaulted by a superior officer. Plaintiff applied for, and was granted, 4 weeks of continuous leave under the FMLA to care for her daughter. The application plaintiff completed was titled "Military Family Medical Leave of Absence Request Form." Despite her protected leave, plaintiff's superiors continued to email her, request she perform work, and gave increasingly negative feedback about her performance. Things did not improve once she returned to work and, believing she would soon be terminated, plaintiff resigned.

Plaintiff then sued defendant for FMLA interference and retaliation, alleging that she was entitled to leave under one or more of the FMLA's provisions: family-care, active-duty, and/or servicemember-family. Defendant moved to dismiss, arguing that plaintiff had invoked active duty leave and state sovereign immunity under the Eleventh Amendment barred the suit. As a matter of first impression, the district court denied the motion to dismiss and the appellate court affirmed.

The appellate court noted that the Supreme Court had previously ruled that Congress had validly abrogated state sovereign immunity for "family-care" claims. *See Nevada Dep't of Hum. Res. v. Hibbs*, 538 U.S. 721, 724 (2003). However, Congress enacted the "active-duty", and "servicemember-family" leave provisions in 2008. The appellate court considered state sovereign immunity may be abrogated in two circumstances: where Congress acts under its Fourteenth Amendment enforcement powers, or where the states consent to be sued. Rather than apply these provisions the appellate court followed the Supreme Court's more recent holding in a USERRA case, where the Court held that the "plan-of Convention" waiver of sovereign immunity applied to suits authorized by Congress pursuant to its "power to build and maintain the Armed Forces." The appellate court held, as a matter of first impression, that Congress enacted the 2008 FMLA military amendments as part of the National Defense Authorization Act and in response to the President's Commission on Care for America's Returning Wounded Warriors pursuant to its military-supporting authority. Thus, state sovereign immunity did not bar plaintiff's claims under either the family-care, actively-duty, or servicemember-family leave.

Summarized elsewhere

***Gabbard v. Butler Cnty, Ohio*, 2025 WL 874731 (S.D. Ohio Mar. 20, 2025)**

***Michaelson v. United States*, 2024 WL 5246520 (D. Mass. Dec. 30, 2024)**

***Polson v. Gage County*, 2025 WL 2986652 (D. Neb. Oct. 23, 2025)**

3. Waiver

4. *Res Judicata* and Collateral Estoppel

***Jones v. Providence Pub. Sch.*, 2025 WL 1235509 (D.R.I. Apr. 29, 2025)**

Plaintiff, a school employee, sued the school district where she was employed after being forced to take administrative leave due to her concerning and abnormal behaviors. Plaintiff brought claims under the ADA, the FMLA, and HIPAA. Plaintiff had previously sued defendant for similar claims based on the same incident, which were dismissed. Defendant filed a motion to dismiss the claims in the current suit based on the doctrine of res judicata.

The court determined plaintiff's FMLA claim was barred by res judicata. Plaintiff alleged the school violated the FMLA in relation to her forced leave. However, plaintiff would have been able to raise this claim in her prior action. The court found that the parties were sufficiently identical, that the first suit had come to a final judgment based on the merits, and that the claim was related to the claim raised in the first suit. Even though plaintiff did not raise an identical issue in her first suit, she could have raised the FMLA claim because it was related to the claim in the first suit, and therefore her claim was barred by res judicata. Appeal is pending at the First Circuit.

5. Equitable Estoppel as a Bar to Certain Defenses

Summarized elsewhere

***Holland v. Texas Christian Univ.*, 2025 WL 1002434 (N.D. Tex. Apr. 3, 2025)**

***Ramirez v. Wynn L.V., LLC*, 2025 WL 2161138 (D. Nev. Jul. 29, 2025)**