

Virginia employee awarded double damages on FMLA claim

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In our August 2015 issue, we discussed a case pending in the U.S. District Court for the Western District of Virginia in which Valerie LaMonaca sued her former employer, Tread, for violating the Family and Medical Leave Act (FMLA) by rejecting her request for medical leave and terminating her employment. At that time, the federal court had just denied Tread's attempt to get the case dismissed without a trial.

In asking for dismissal, Tread argued that it no longer employed LaMonaca at the time it received her leave request. The court had a different view, however, finding that the company couldn't preemptively terminate an employee to avoid granting her FMLA leave request. The court ruled that a jury needed to decide whether LaMonaca provided Tread with sufficient notice of her need for leave before it terminated her. Let's take a look at how the jury trial turned out.

Facts

LaMonaca's lawsuit arose after a series of e-mails resulted in her termination. On a Friday evening, she e-mailed Tread's CEO and an HR assistant to inform them that she would be out of the office on Monday morning because she had a doctor's appointment to address stress she had been dealing with. She also stated that she might need to take a medical leave of absence.

LaMonaca did request a medical leave of absence on Sunday evening after exchanging more e-mails and text messages with the company. On Monday

morning, she received an e-mail from Tread's CEO informing her that she had been terminated, effective the previous Friday.

Jury trial held

After a trial, a jury found in LaMonaca's favor, determining that Tread had terminated her because of her request for medical leave and to avoid granting her FMLA leave. As a remedy, she was entitled to lost pay through the date of the trial, which was calculated to be \$55,000.

The court doubled the damages award based on its finding that Tread had willfully violated LaMonaca's legal rights. The judge also awarded her \$210,000 in attorneys' fees. *LaMonaca v. Tread*, C.A. No. 7:14-cv-00249 (W.D. Va., Jan. 21, 2016).

Bottom line

The FMLA requires employers covered by its provisions to grant medical and family leave to eligible employees. Don't play fast and loose with your obligations under the FMLA. If you do, you can end up on the wrong end of a lawsuit and find yourself shelling out a substantial amount in damages and attorneys' fees.

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