



UPDATE
**Labor and
Employment**

OCTOBER 2012

A Key Court Decision for Employers: Connecticut's Family and Medical Leave Law Applies Only to Those with 75 or More Employees in State

On September 24, 2012, the Connecticut Supreme Court issued an important decision for employers regarding the scope of Connecticut's Family and Medical Leave Act (CTFMLA). CTFMLA requires employers with 75 or more employees to provide eligible employees with a total of 16 weeks of unpaid family and medical leave during a 24-month period. In this recent case, *Velez v. Comm'r of Labor*, the Court decided that out-of-state employees cannot be counted to determine whether an employer meets the 75-employee minimum threshold for CTFMLA coverage. Rather, the Court held that CTFMLA applies only to employers with at least 75 employees within Connecticut.

The employer in the *Velez* case had more than 1,000 employees nationwide, but fewer than 75 employees in Connecticut. As the company was subject to the federal FMLA (because it employed at least 50 employees), the employer approved the maximum 12 weeks of medical leave required pursuant to the federal FMLA for one of its Connecticut employees.¹ After that leave expired, the employee remained unable to return to work and her employment was terminated. Following her termination, the employee filed a complaint with the Connecticut Department of Labor (CTDOL), claiming that her employer was also subject to the CTFMLA because it employed more than 75 employees when its out-of-state employees were counted. She claimed that she was due an additional 4 weeks of leave under the state law and that her employer had, therefore, violated CTFMLA when it terminated her employment after just 12 weeks.

The CTDOL concluded that the CTFMLA did not apply to her employer because the company employed fewer than 75 employees in Connecticut, and the case ultimately found its way to the Connecticut Supreme Court. The Supreme Court agreed with the CTDOL's interpretation, noting that the CTDOL's interpretation of the CTFMLA was time-tested and consistent with the language of the CTFMLA, related statutes, applicable legislative history, and the federal FMLA. Further, the Court was unwilling to presume that an employer with just one employee in Connecticut and 74 or more employees working in other states would be subject to the CTFMLA, citing the logistical nightmare for employers and the burdens on Connecticut's labor commissioner to investigate employers far outside the commissioner's jurisdiction.

TAKE AWAY FOR EMPLOYERS

A company with fewer than 75 employees in Connecticut is not subject to any of the provisions of the CTFMLA regardless of how many employees the company employs outside of the state. Even if exempt from the CTFMLA, the federal FMLA covers employers with 50 or more employees (in Connecticut and elsewhere) and requires that such employers apply the federal FMLA to employees at a worksite with at least 50 employees anywhere within 75 miles of that site.

MORE INFORMATION

To receive additional information regarding state or federal Family and Medical Leave Acts or for questions concerning employee leaves of absence, please contact one of the following attorneys:

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¹ The employee was eligible for leave under the federal FMLA because she had worked at least 1,000 hours for the employer in the 12 months preceding the leave and the employer employed at least 50 employees at or within 75 miles of the site where she worked.

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