



2018 FMLA Master Class: Texas Advanced Skills for Employee Leave Management

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Organizer : BLR – Business and Legal Resources

Venue : Renaissance Austin

Location : 9721, Arboretum Blvd
Austin, TX, USA, ZIP: 78759

2018 FMLA Master Class: Texas *Advanced Skills for Employee Leave Management*

On-Site Seminar:

Austin, Texas | Tuesday, February 20, 2018

Dallas, Texas | Thursday, March 8, 2018

Morning Focus: Master FMLA Essentials to Make Sure Your Knowledge Foundation is Up to Date

Afternoon Focus: FMLA Compliance Scenarios and Case Studies for Real-World Application

Lunch is included with your registration!

Think employee leave management is a one-time policy issue? Be careful! New and confusing regulations, conflicting court decisions, and increasing employee abuse of FMLA protections means family and medical leave will remain one of HR's biggest management headaches.

To help you master your obligations and avoid costly penalties, the publisher of *Texas Employment Law Letter* has crafted a cost-effective and engaging solution: **2018 FMLA Master Class: Texas - Advanced Skills for Employee Leave Management**. This intensive day-long workshop provides the comprehensive knowledge you need to master real-life issues. An experienced Texas attorney will provide substantive instruction on FMLA compliance in light of new and existing regulations, court rulings, and application of this far-reaching law. You'll engage with your instructor and your peers, solving challenges you face day in and day out

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concerning intermittent leave, return to work, employee performance, and much more.

This event teaches employee leave management essentials while instilling the confidence you need to make the right coverage calls, control abuse and fraud, answer the toughest questions from employees and your executive colleagues, and avoid the expensive missteps that have devastated other employers.

You'll enhance your advanced-practitioner skill set when you attend this satisfaction-guaranteed event and learn:

- How to judge a serious health condition the way judges do, and eliminate disputes about what does and doesn't constitute it
- The latest FMLA revisions, so you don't risk noncompliance
- What recent FMLA court decisions really mean, so you can adjust your policies accordingly
- Where FMLA recordkeeping trips up even the savviest human resource managers, and some solutions to avoid similar mistakes
- How to tame the intermittent leave and reduced schedule beasts, and put a stop to abuse and fraud
- How FMLA, ADA, and workers' comp laws overlap, so you can avoid violations
- And more!

"When an employer routinely disregards the FMLA rights of its workers, whole families can be harmed. We will continue to use all enforcement tools at our disposal to uphold FMLA protections for workers and make sure that all employers operate in compliance with the law."

– Wayne Kotowski, Wage & Hour Division, U.S. Department of Justice

Master Class Agenda

Registration

7:30 a.m.–8:30 a.m.

Part I—Mastering FMLA Fundamentals

FMLA Eligibility: Granting Leave When It's Due and Getting It Right

8:30 a.m.–9:00 a.m.

Could you be missing critical first steps in managing FMLA leave—determining employee eligibility? A defined, consistent process helps you not only deny leave when employees don't qualify, you'll grant leave for a period that is reasonable and necessary when they do. In this opening session, gain new insights on eligibility determinations and recent trends and

developments affecting leave. You'll be armed to adjust policies and practices in 2018 to ensure compliance with the changing regulatory, legal, and practical landscape. You'll learn:

- How to determine FMLA eligibility quickly and easily
- How the FMLA rules and related court decisions define who qualifies as a covered family member
- How to coordinate leave for workers caring for adult children
- Rules related to determining *in loco parentis* status
- How to coordinate state and federal leave when definitions of "covered family member" differ

Managing Serious Health Conditions and Medical Certifications

9:00 a.m.–10:00 a.m.

At the heart of many FMLA leave requests is the serious health condition. The regulations do offer some guidance and allow you to require medical certification, yet there are a multitude of reasons for needing time off. Assessing those reasons requires keen judgment, and this session will show you how to make the right call. You'll learn about:

- Illnesses and injuries that may be serious health conditions -- even though the regulations say they generally aren't
- How many health conditions it takes to be "serious"
- What to do if a medical certification is incomplete or unclear
- Your options if an employee or doctor doesn't cooperate with obtaining the required certifications
- When you may require employees to provide recertification of a serious health condition
- The "do's and don'ts" of return-to-work certifications

Break

10:00 a.m.–10:15 a.m.

Meeting FMLA Deadlines: Notification, Curbing Abuse, and Preventing Claims

10:15 a.m.–11:00 a.m.

FMLA is ruled by deadlines for giving and receiving information, for measuring how much leave has been taken, and for determining how much leave employees have remaining in a given year. A good grasp of timing rules—and learning how to monitor other key areas of FMLA usage—can help you prevent abuse of FMLA entitlements and fend off litigation. This session covers:

- How to give the four kinds of FMLA notices—on time and on point
- What to do if an employee refuses FMLA designation
- Selecting the best type of FMLA leave year for your organization
- Counting holidays that fall during leave
- Rules regarding "making up" FMLA leave
- Handling suspected FMLA abuse without running afoul of the law
- How to manage employee leave without risking claims of interference

- How to legally discharge employees who are on or just returned from FMLA leave

Mastering Tough FMLA Issues

11:00 a.m.–12:15 p.m.

It's one thing to understand FMLA rules, but another thing entirely to apply them in the real world. For example, intermittent leave seems pretty straightforward, but what about temporary light-duty positions and fluctuating work schedules? Reinstatement after leave? How do you handle an investigation by DOL? This session will show you:

- How to manage intermittent and reduced schedule leave
- How to handle leave duration
- How to calculate leave for fluctuating work schedules
- Rules on substitution of various types of paid leave for FMLA leave
- When employees have job reinstatement rights and when they do not
- Tips on how to effectively manage an FMLA investigation by the DOL

Networking Power Lunch (included with your registration)

12:15 p.m.–1:15 p.m.

All Together Now: Coordinating FMLA with ADA, Workers' Comp, and State Family Leave Laws

1:15 p.m.–2:30 p.m.

FMLA seems pretty comprehensive, but it's not the only law that applies when employees need time off for their own serious health condition, to care for a family member, or for other reasons. You need to know when other laws create different obligations—and how their requirements work in tandem with FMLA. In this session we'll cover:

- How FMLA and ADA interact
- Why FMLA serious health conditions are more likely to qualify as disabilities under the ADA
- When you should offer leave as a reasonable accommodation under the ADA, including a discussion of ADA leave cases and agency guidance
- How to offer accommodations other than leave without violating FMLA
- When you can require employees to take FMLA leave concurrently with workers' comp leave
- Recent developments in state leave laws, including paid sick leave, family leave, pregnancy accommodation, and other trends

Break

2:30 p.m.– 2:45 p.m.

Part II—Intensive Workshop Addressing the Real-Life Application of FMLA Rules, DOL

Regulations, and Court Rulings

Applying Your Knowledge

2:45 p.m.—4:00 p.m.

In this highly interactive portion of the FMLA Master Class, your faculty of labor and employment attorneys will walk you through a series of scenarios illustrating real-life FMLA issues that stump even the most seasoned of HR practitioners. You'll discuss case-studies with the lawyers and fellow attendees to determine the correct course of action, based on the facts and FMLA compliance principles.

Recent court rulings, long-standing precedent, DOL interpretations, opinion letters, and regulations—as well as the trainers' own experiences in advising clients—are interwoven into this engaging afternoon workshop to provide actionable guidance on tricky FMLA challenges facing HR and employers in 2018. We'll dive deep into:

1. Medical certifications and what to do when:

- Certification submitted by employee is not sufficient
- Employee does not return the certification
- Employee refuses to update the certification if need for leave changes
- Employee does not submit fitness-for-duty certification at end of leave

2. Intermittent leave

- Certification of need for intermittent leave
- Specific information on when leave is needed, expected frequency and duration
- What to do if an employee uses more leave than expected
- Abuse of intermittent leave (Mondays and Fridays, before and after holidays)

3. Reduced schedule leave

- Certification and specific information on reduced hours, expected duration
- Updating certification
- Tracking leave time

4. FMLA during holidays and shutdowns

- How to count FMLA leave during holidays
- Administering FMLA leave during extended plant or office shutdowns
- Determining whether an employee on FMLA leave during holidays is entitled to holiday pay

5. Addressing performance issues that arise prior to the request for leave

- What to do when an employee requests FMLA leave in the midst of the disciplinary process or just before discipline or termination steps are taken
- Addressing performance issues that arise during intermittent or reduced schedule leave
- Addressing performance issues discovered while an employee is on leave
- Reductions in force while employee is on FMLA leave

6. Return to work—what to do if an employee is:

- Not able to return to work at end of leave (ADA considerations)
- Cleared to return to work with restrictions
- Temporarily unable to perform essential functions
- Unable to perform essential functions in the long-term

Final Questions and Closing

4:00 p.m.–4:30 p.m.

Have lingering questions about points raised during this intensive FMLA workshop or want to revisit a fundamental concept or two from earlier in the day? Take advantage of this opportunity to get clarification from the attorneys before you wrap up for the day.

Your Austin Faculty with the law firm of Constangy, Brooks, Smith & Prophete, LLP



William E. Hammel

Partner

William "Billy" Hammel is a partner in the Dallas office of Constangy. Billy's practice includes counseling and representing employers in the areas of employment law, labor relations, compensation and benefits, workplace safety, corporate governance, officer and director liability, preventative counseling, liability and risk management, and best practices. He regularly represents employers in a wide variety of labor and employment law matters before administrative agencies and in state and federal courts. Billy's practice also includes drafting and litigating employment agreements and restrictive covenants, trade secret agreements, independent contractor agreements, vendor agreements, and corporate agreements. Billy's primary focus is on helping clients avoid litigation in the first place through preventative counseling, compliance counseling and training, internal audits, investigations, and damage control.



John E. Duke

Senior Counsel

John advises and represents regional, national, and international employers across the spectrum of industries in the full panoply of labor and employment matters. In addition to advising employers on such union-related concerns as organizing campaigns, collective bargaining, and strikes, John also defends employers in representation and unfair labor practice cases before the National Labor Relations Board. For more information, visit www.nyeventslist.com

Board, handles labor issues in the federal courts, and has tried dozens of labor arbitrations. He also represents employers before federal and state trial and appellate courts in single plaintiff, complex class/collective action employment litigation, and non-compete litigation.

Your Dallas Faculty with the law firm of Norton Rose Fulbright LLP



Danielle Alexis Matthews
Norton Rose Fulbright LLP

Danielle represents clients in matters involving ADA, FMLA, the Texas Commission on Human Rights Act (TCHRA), the Texas Workers' Compensation Act (TWCA), and similar statutes and regulations, as well as in employment related breach of contract cases. She has also dealt with clients on affirmative action issues, desk audits, and in comprehensive/on-site OFCCP audits.



Veronica Kendrick
Norton Rose Fulbright LLP

Veronica joined Norton Rose Fulbright in 2016. As an associate in the Dallas office, she focuses her practice on commercial disputes matters.

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