

Daily Labor Report ®

Wisconsin Teacher Wins Appeal on Interference with Medical Leave

By Annelise Gilbert

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- Declaratory judgment falls under FMLA's equitable relief
 - Demotion from fulfilling job violates FMLA rights
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A Wisconsin teacher who was placed in a “backwater” position upon returning from medical leave had her rights under the Family and Medical Leave Act violated, the Seventh Circuit said Tuesday.

Sarah Simon worked for Cooperative Educational Service Agency #5, a state governmental agency, as a lead teacher. In 2016, while working at an elementary school for children with special needs, Simon suffered a concussion after a student kicked a steel door into her head.

Simon took FMLA leave to recover, and was cleared to return to full-time work within a few months. When she returned, though, Cooperative didn't place her in her previous position, citing potential risk. Although Simon received the same salary and benefits, her new role significantly reduced her responsibility, independence, discretion, and management.

Simon sued Cooperative alleging interference, among other FMLA claims, and sought injunctive and declaratory relief. The US District Court for the Western District of Wisconsin ruled Cooperative had violated the FMLA, but granted only declaratory judgment. It decided not to grant injunctive relief because of Cooperative's hiring trends, the unavailability of Simon's previous position, and Simon's new job elsewhere. It also partly granted Simon's request for attorneys' fees.

Cooperative appealed, but the US Court of Appeals for the Seventh Circuit affirmed.

Cooperative argued that declaratory judgment is unavailable under the FMLA, and that Simon didn't show that she was prejudiced by its FMLA violation.

The Seventh Circuit acknowledged that it hadn't addressed before whether declaratory judgment falls under the FMLA's definition of equitable relief, but compared it to similar wording in the Employee Retirement Income Security Act that it had reviewed before. In that case, the court held that a plaintiff could seek declaratory relief under ERISA.

The court also pointed to Congress's definition of equitable relief in other statutes, as well as statutory context, Supreme Court precedents, and the historical origins of declaratory judgment to support its reading.

The Seventh Circuit also affirmed the lower court's finding that Simon demonstrated she was prejudiced by the violation. In giving up her fulfilling job for one in which she was overqualified, Simon suffered a real impairment of her rights, the court said.

Cooperative argued that a declaratory judgment can't trigger the right to attorney's fees and classified the award as a form of punitive damages. The court disagreed, saying the FMLA expressly requires attorney's fees after a judgment is entered in the plaintiff's favor, the court said.

Simon's attorney Aaron N. Halstead of Hawks Quindel SC said the opinion was worth waiting for after the case was initially tried in March 2020. "What we're the most pleased about is how it really vindicates Simon's rights after she was treated so badly by her employer," he said.

Judge Thomas L. Kirsch II wrote the opinion, and Judges Frank H. Easterbrook and Amy J. St. Eve joined.

Kopka Pinkus Dolin PC represents Cooperative.

The case is Simon v. Coop. Educ. Serv. Agency #5, 7th Cir., No. 21-02139, 8/16/22.

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