

### U.S. Supreme Court Issues Two Employment-Related Decisions

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On March 19, 2002, the United States Supreme Court issued two decisions of interest to employers. The first case involved the Family Medical Leave Act and the second involved the requirements for filing a charge with the Equal Employment Opportunity Commission.

#### Failure To Designate FMLA Leave

The Family Medical Leave Act ("FMLA") requires employers with 50 or more employees to grant qualifying employees 12 weeks of unpaid leave of absence each year. Employers must post a notice setting forth employees' rights to a leave of absence under the FMLA. The Secretary of Labor has promulgated regulations with additional notice obligations, including the employer's obligation to give employees a notice describing their rights at the time they begin a leave of absence. One such regulation provides that if an employer grants an employee a leave of absence but fails to specifically designate it as FMLA leave, the leave does not count against the employee's FMLA entitlement. Under this circumstance, the employee would be entitled to an additional 12 weeks of leave after the FMLA designation has been made.

The validity of this regulation has been the subject of much debate. The Supreme Court has finally put an end to the debate by deciding the issue in *Ragsdale v. Wolverine World Wide, Inc.* In this case, Wolverine World Wide, Inc. ("Wolverine") granted Tracy Ragsdale 30 weeks of leave when she was unable to work due to cancer. Wolverine, however, failed to specifically notify Ragsdale that her leave constituted a leave under the FMLA. After 30 weeks, Ragsdale was still unable to return to work and Wolverine terminated her employment. Ragsdale filed a lawsuit, claiming that she had been terminated when she was still entitled to an additional 12 weeks of leave under the FMLA. She sought reinstatement, backpay, and other relief.

Wolverine defended its termination decision by arguing that the regulation was invalid. The Supreme Court agreed. The Court noted that the FMLA requires employers to provide only 12 weeks of leave each year – regardless of whether or when the employer designates the leave as FMLA leave. Moreover, in order for an employee to successfully sue for a violation of the FMLA, the employee must prove the employer interfered with, restrained, or denied his or her exercise of FMLA rights. The regulation seeks to automatically punish the employer, and benefit the employee, for a late FMLA designation whether or not the employer's failure to designate the leave as FMLA interfered with, restrained, or prevented the employee from exercising his or her rights. For example, Wolverine's failure to designate Ragsdale's leave as FMLA leave did not cause Ragsdale any harm. Ragsdale was not able to return to work until months after her leave expired. Accordingly, the Court held that the regulation is invalid.

Employers should not interpret the Supreme Court's holding as authority to ignore FMLA's notice provisions. While the Court struck one regulation and even cast some doubt on the validity of other regulations, the Court refused to extend its holding to the other regulations. The Court's holding merely states that failure to designate a leave as FMLA leave does not automatically entitle an employee to an additional 12 weeks of leave. Conceivably, an employer's failure to provide an employee a notice of his or her FMLA rights could violate the FMLA, and lead to monetary damages, if the failure to give notice somehow prejudices or injures the employee. Accordingly, employers are advised to continue providing employees with timely and proper notice of their FMLA rights.

## Employee's Failure to Verify EEOC Complaint

An employer must file a timely complaint, or charge, with the Equal Employment Opportunity Commission ("EEOC") before pursuing a civil lawsuit for discrimination under Title VII of the Civil Rights Act. The EEOC's regulations provide that a charge must be filed within a certain amount of time, typically 180 days, after the alleged unlawful practice. The regulations also provide that the complainants sign a charge under oath. In *Edelman v. Lynchburg College*, the United States Supreme Court held that these two requirements are independent of each other. In other words, an employee must file a charge within the appropriate time period. That charge, however, need not be signed under oath within the time period. As long as the employee signs the charge before the employer responds to the charge, the charge is timely.

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## Practice Areas

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