

Court: Arbitration OK as long as employee doesn't have to give up any rights

A federal court has upheld an arbitration agreement negotiated between a union and an employer that compelled individual arbitration for FMLA claims.

Recent case: Jeanie worked as a flight attendant. A union represents airline workers, including flight attendants. During the last round of negotiations, the union agreed that all FMLA claims would be resolved through arbitration.

Jeanie suffered from migraine headaches and sinus infections and requested intermittent FMLA leave to use when the conditions flared up. The airline rejected her request, demanding more specific information. A nurse signed a revised form. The airline still rejected the form, and accused Jeanie of altering it.

She was then ordered to undergo an exam, presumably because employers have the right to challenge FMLA certifications with an independent, employer-paid examination. The doctor the airline chose found her allegedly unfit to work.

Jeanie was then fired for providing fraudulent documents. She sued her employer for FMLA violations.

The airline demanded the case go to arbitration. Jeanie argued the union couldn't give up her FMLA rights on her behalf.

The court disagreed. As long as Jeanie can ask the arbitration for all the remedies like liquidated damages and attorneys' fees, she isn't losing anything. (*Montgomery v. Compass Airlines*, No. 14-557, DC MN, 2015)

Final note: Deciding how, when and why to use arbitration agreements is no easy task. Before you even think about implementing an arbitration agreement, make sure you discuss the pros and cons with your attorney.