

Government bosses can be liable under FMLA

Company supervisors who make family leave decisions and manage FMLA administration can be held personally liable for violations. Until now, it was unclear in California whether that liability extended to supervisors who administer the FMLA at public agencies. It is now clear it does.

Recent case: When Tamara went to work for the California Commission on Peace Officer Standards and Training, she told her supervisor Frank that she was helping care for her elderly mother.

Later, when she learned she might be transferred to another location, she told Frank it would interfere with her ability to care for her mother. He suggested she write a memo explaining the problem. Then Frank would forward it to his supervisor, Alan. Tamara wrote the memo and wasn't transferred.

However, Alan never mentioned to anyone that Tamara was eligible for FMLA leave to care for her mother. Later, after Tamara hurt her knee, she took leave, but still wasn't informed about the FMLA.

Then, during an unrelated disciplinary investigation, Tamara told Alan and another supervisor that she needed leave to help her mother. She put in an FMLA request at that point, but was terminated.

She sued, listing Alan as an individual defendant. He protested, arguing that as a government employee, he couldn't be liable under the FMLA.

The court disagreed. It said the FMLA language was clear: Employees who are responsible for making FMLA decisions can be personally liable for not following the rules—including failing to tell employees about their FMLA rights after they give notice that they might need leave.

A jury will now decide whether Tamara provided sufficient notice when she mentioned she was her mother's caregiver and couldn't accept a transfer to a different location. (*Evans v. California POST*, ED CA, 2018)