

Too small for FMLA to apply? Don't count on it

Employers don't have to comply with the FMLA unless they employ 50 or more employees. However, they can't escape being covered by creating smaller, wholly owned enterprises.

Recent case: Craig was a manager at a small farmers market in Reading. He hurt his eye at work and took leave for medical treatment. He was fired shortly after returning to work.

He sued the entity that appeared on his paystubs—Boscov's Department Stores. It sought to dismiss the case, arguing that Craig worked for a separate entity that managed the market that Boscov's owned. It had 12 employees. The court refused to dismiss the case, noting the overlapping ownership and that Boscov's employees had been involved in the termination decision. (*Zuber v. Boscov's*, ED PA, 2018)

Note: Separate entities may be joint employers with employee counts that may be combined for FMLA purposes.