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CONNECTICUT SUPREME COURT CONFIRMS THAT ONLY CONNECTICUT-BASED EMPLOYEES COUNT FOR PURPOSES OF DETERMINING COVERAGE UNDER THE STATE FAMILY AND MEDICAL LEAVE STATUTE

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In a long-awaited decision, the Connecticut Supreme Court recently held that the Connecticut Family and Medical Leave Act ("CT FMLA"), Conn. Gen. Stat. §§ 31-51kk, *et. seq.*, only applies to businesses employing 75 or more persons in Connecticut. The **ruling**, issued on September 25, 2012, in the case of *Velez v. Commissioner of Labor*, means that companies with more than 75 employees worldwide, but fewer than 75 in Connecticut, will not be subject to the statute's terms.

Joaquina Velez ("Velez") was employed by the Related Management Company ("RMC"), which has more than 1,000 employees nationwide, but fewer than 75 in Connecticut. In 2005, Velez was injured at work and approved for 12 weeks of medical leave. Velez later requested to return to work with a "light duty" restriction, but was informed by RMC that "light duty" work was unavailable. Because Velez remained unable to work at full strength upon expiration of her leave allotment, RMC terminated her employment.

Velez filed a complaint with the Connecticut Department of Labor ("CT DOL") alleging that RMC violated the CT FMLA by refusing to allow her to return to work. The CT DOL rejected her claim on the ground that RMC did not qualify as an "employer" within the meaning of the CT FMLA, interpreting the statute's threshold coverage requirement of "seventy-five or more employees" to mean 75 or more employees in Connecticut. Velez appealed, and the Connecticut Superior Court ruled in her favor, finding the CT DOL's reading of the statute "unreasonable." RMC then appealed to the Connecticut Supreme Court, which reversed, explaining: "[U]nder the interpretation of § 31-51kk(4) that the plaintiff advocates, an employer with just one employee in Connecticut and seventy-four employees dispersed around the world would be subject to the leave statute. We are unwilling to presume that the legislature would have intended such a result, not only because of the logistical nightmare it would create for employers, but also because of the burdens that it would impose on the commissioner [of the Department], who presumably would be required to conduct investigations into the employment records of employers far outside her jurisdiction."

Although this ruling confirms that businesses with 74 or fewer employees in Connecticut are not subject to the CT FMLA, it bears emphasizing that the federal Family and Medical Leave Act, which in substance is virtually identical to the CT FMLA, has a lower threshold for coverage, extending to companies with 50 or more employees at a single site of employment or within a 75-mile radius.