

FMLA Insights

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U.S. Supreme Court to Decide Whether States Are Immune from Certain FMLA Claims

By [Jeff Nowak](#) on June 28, 2011



On June 27, 2011, the United States Supreme Court agreed to review an FMLA case in which the Court will decide whether a State can be sued under the Family and Medical Leave Act where the employee is seeking leave due to his or her own serious health condition. In lawyer-speak, the question specifically involves "whether Congress constitutionally abrogated states' 11th Amendment immunity when it passed the self-care leave provision of the Family and Medical Leave Act." Although the issue may at first blush appear to be rather dry and inconsequential to the FMLA practitioner, the decision clearly will impact whether a State can be sued under the FMLA where the issue involves one of "self-care" under the Act. [Coleman v. Maryland Court of Appeals](#) (pdf).

In *Coleman*, the plaintiff was employed by the Maryland Court of Appeals and sought FMLA leave to care for his own serious health condition. He later claimed his FMLA leave was denied in retaliation for his complaints of wrongdoing in his office. In a decision that only an FMLA geek like me may find fascinating, the Fourth Circuit Court of Appeals ruled that Congress did not validly strip states of their "immunity" to claims under the FMLA in this specific instance. As a result, the appellate court upheld the dismissal of the lawsuit.

The case hinges on the interpretation of the [11th Amendment](#) to the U.S. Constitution, which bars claims in federal court against an unconsenting state and any governmental units that are arms of the state unless Congress has abrogated the immunity. In order to do so, Congress must unequivocally declare its intent to abrogate and must act pursuant to a valid exercise of its power. The high court now will make the final decision.

Public employers should take note of and follow this case, which will be considered by the Court in its next term. The parties' briefs in the case before the Court can be found at the [SCOTUSblog](#).

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