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LEGAL ALERT



## Legal Alert: California Supreme Court Hears Oral Argument On Its First California Medical Leave Case

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On January 8, 2008, the California Supreme Court heard oral argument in *Lonicki v. Sutter Health Central* (12/10/04). This case provides California's highest court with its first opportunity to interpret provisions of California's Family Rights Act.

In this case, the plaintiff, Lonicki, worked in Sutter's sterile processing department. While she was employed by Sutter, Lonicki also worked part time in the sterile processing department at Kaiser Hospital. Lonicki performed the same duties at both hospitals.

Lonicki requested a medical leave of absence from Sutter due to stress associated with her job. **Significantly**, Lonicki was still working for Kaiser when she said she could not work at Sutter. There were difficulties obtaining information from Lonicki's health care provider, so Sutter approved the absence as paid time off, rather than medical leave. Lonicki did not return to work when she was released by her doctor and was subsequently discharged.

Lonicki sued Sutter, alleging violation of the California Family Rights Act, which requires that an employer grant a medical leave of absence if the employee's serious health condition "makes the employee unable to perform the functions of the position of that employee . . ." Sutter sought, and was granted, summary judgment, on the grounds that, while Lonicki was allegedly unable to perform the functions of her job at Sutter, she was performing the same functions at Kaiser. Hence, she was not unable to perform the functions of her job, and was not entitled to leave.

The Court of Appeal affirmed the trial court's grant of summary judgment in favor of Sutter. In doing so, the court examined federal authority analyzing similar provisions under the federal Family and Medical Leave Act. The court also analyzed authority under Oregon's Family Leave Act. Finding the authority unpersuasive in interpreting California's law, the court detailed the balance that must be struck between the demands of the workplace and the needs of employees. The court concluded that Lonicki had "selective disability," meaning that she was "not unable to perform the essential functions of her job; rather, she was unwilling to do so for Sutter."

The Court of Appeal also rejected Lonicki's claim that because Sutter denied her request for medical leave based on a nurse practitioner's note without following the procedures to obtain other medical opinions under the California

Family Rights Act, Sutter was precluded from contesting the issue. The court held that the note presented by Lonicki was “manifestly insufficient to establish a qualifying medical condition.”

The California Supreme Court’s decision is due out by April 7.

***Bottom Line for Employers:***

The California Supreme Court’s decision in this case will be pivotal in cases brought under the California Family Rights Act. The Court will decide both the issue of whether an employee can be disabled from one employer, while working for another employer in the exact same capacity, as well as the ramifications of possibly not meeting the strict medical opinion regulations under the Act.

We will apprise you of the opinion once it is rendered.

Administering California’s many different types of leave laws requires a meticulous understanding of the laws and how they interact with one another. Should you have any questions about how to make sure that the laws are properly administered, or about any other issue of California law, contact the author of this Alert, Helene Wasserman, in the Firm’s Los Angeles office, at 213-237-2403 or [hwasserman@fordharrison.com](mailto:hwasserman@fordharrison.com).

Helene is the host of the Employer Helpcast, which is a "one stop website" for both "nuts and bolts" employment law advice and insight into new legal developments affecting employers. The Employer Helpcast can be found at <http://employerhelpcast.blip.tv>.