

# Massachusetts Federal Court Decision Highlights the Importance of FMLA Training and Compliance

October 12, 2017

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A recent Massachusetts federal district court decision serves as a reminder of the importance of training managers, human resources professionals, and supervisors on the legal requirements of leave—and of how missteps in handling leave situations can expose employers to significant liability. In *Boadi v. Center for Human Development, Inc.*, No. 14-cv-30162 (September 21, 2017) the court determined that an employer and a supervisor were liable for liquidated damages on an employee's interference claim under the Family and Medical Leave Act (FMLA), essentially doubling the employee's recovery. Employers should be aware of *Boadi* to avoid not only FMLA liability, but also heightened exposure under its liquidated damages provision.

## Background

Grace Boadi, an employee of the Center for Human Development, was unexpectedly hospitalized from April 15, 2013, to April 24, 2013. Though the Center had a call-in policy that required employees to provide personal notice of their absences, Boadi's health issues rendered her unable to communicate effectively, so she asked her son to notify the Center that she was hospitalized and unable to work. As a result, Boadi's son informed an on-call supervisor, his mother's direct supervisor, and his mother's second-level supervisor, Candy Pennington, of Boadi's absence and inability to work four times between April 15, 2013, and April 18,

2013. On April 18, Pennington told Boadi's son not to contact the Center again because it was "not acceptable for him" to report his mother's absences.

The next day, Pennington informed the Center's vice president of human resources, Carol Fitzgerald, that Boadi was hospitalized and unable to work. A few days later, Pennington notified Fitzgerald that Boadi had violated the Center's "no call/no show" policy by being absent from work on April 19, April 20, and April 21, without personally notifying the Center of her absences. Fitzgerald then drafted an employment termination letter to Boadi, which Pennington's supervisor, Jeffrey Trant, signed. Neither Pennington nor Fitzgerald told Trant that Boadi was hospitalized.

Boadi was released from the hospital on April 24. On April 25, her primary care physician faxed a certificate to the Center indicating that Boadi required a leave of absence from April 23, 2013, to May 23, 2013. Boadi then went to the Center's human resources department, where she filled out short-term disability and FMLA paperwork. Within a day or two of doing so, Boadi notified Pennington that she intended to return to work at the Center. However, on April 30, Pennington informed Boadi that Boadi had abandoned her job by failing to call the Center to report her absences. At some point during the first week of May, Boadi received the employment termination letter that Trant had signed.

### **The Court's Decision**

After a jury found in Boadi's favor on her FMLA interference claim, the judge was tasked with deciding whether Boadi was entitled to liquidated damages. Under the FMLA, an employee who proves that her employer interfered with her FMLA rights is entitled to recover liquidated damages in an amount equal to her actual damages (which is usually lost wages and benefits plus interest), unless the employer shows that it engaged in the conduct that interfered with the employee's FMLA rights in "good faith" and that it had "reasonable grounds" for believing that such conduct was legal. The judge concluded that the Center and Pennington failed to establish either requirement.

Though the Center was aware that Boadi was ill and unable to personally notify the Center of her absences before it terminated her employment, none of the Center's employees who were aware of Boadi's hospitalization or involved in the termination decision "sought legal counsel or other advice on the FMLA's requirements before they terminated [Boadi]'s employment," such as whether Boadi was excused from complying with the Center's call-in policy or whether the notices that Boadi's son provided were sufficient under the FMLA. Indeed, Pennington, who made the decision to terminate Boadi's employment, had received little FMLA training and Trant, who had received more extensive FMLA training, never inquired as to Boadi's condition before signing the termination letter.

Furthermore, the Center failed to reconsider its decision to terminate Boadi's employment after she provided notice of her unforeseeable period of leave "as soon as practicable," as the FMLA's implementing regulations require. Notably, even though Boadi's physician provided the Center with a certificate regarding her need for

a leave of absence and Boadi informed Pennington that she intended to return to work, nobody from the Center ever asked Boadi why she did not personally notify the Center of her absences.

### **Key Takeaways**

*Boadi* provides employers with useful guidance on complying with the FMLA and reducing the risk that they will face liability for liquidated damages.

First, employers should train supervisors on the FMLA and their internal policies and practices concerning leave. As the *Boadi* decision shows, the failure to ensure that supervisors are aware of the FMLA's requirements is a factor that courts consider when assessing whether an employer is liable for liquidated damages.

Second, human resources professionals and higher-level supervisors should consider the circumstances concerning an employee's absence from work before approving an employment decision based on absenteeism with respect to that employee.

Third, an employer may want to reconsider employment decisions that it made based on an employee's failure to comply with a call-in policy when the employee later informs the employer that she was unable to comply with that policy because of medical reasons.

Finally, human resources professionals and supervisors should be encouraged to seek guidance from employees who have greater expertise in dealing with leave issues, such as leave coordinators, senior human resources professionals, or the company's legal team.

### **TOPICS**

[Employment Law, Leaves of Absence, Massachusetts, State Developments](#)