

**Terminating Employees on Medical Leave May Trigger Emotional Distress Claims**

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The U.S. District Court for Connecticut found that an employee informed of his termination while on a medical leave of absence stated a cause of action for both intentional and negligent infliction of emotional distress. Storm v. ITW Insert Molded Products, 400 F. Supp. 2d 443 (D. Conn. 2005). In denying defendant's motion to dismiss, the court found plaintiff sufficiently alleged extreme and outrageous behavior by the employer, and that the conduct occurred as part of the termination process.

Robert Storm worked for ITW for over 30 years when he suffered congestive heart failure and was placed on a medical leave of absence. After three weeks on leave the company called him in to work under the pretext that his help was needed on an important business matter. When he arrived, he was instead informed he was being terminated the next day due to financial conditions requiring the elimination of his job. When Storm complained, the company continued him on medical leave and delayed the termination until his first day back at work some three months later.

In his common law suit, the plaintiff alleged that fraudulently calling him to the plant and terminating him while on medical leave was egregious behavior, and company officials should have known their conduct was likely to cause him severe emotional distress, especially given his physically and emotionally weakened state. In denying the company's motion to dismiss, the court noted that simply terminating an employee while on medical leave or at its conclusion cannot alone state a cause of action for intentional infliction of emotional distress, but knowingly

exposing an employee to an unreasonable and unnecessary risk of harm, which exceeds bad manners or hurt feelings, could show sufficient egregiousness.

In addition, the court found that calling Storm to the plant and telling him of his discharge while on leave and then invoking the termination on his first day back at work were enough to state a cause of action for negligent infliction of emotional distress during the termination process.

This case points out that aside from any FMLA rights employees may have when on medical leave, common law claims can also surface if proper care is not exercised when dealing with leave related matters.

For more information contact [scott@schaffer-law.com](mailto:scott@schaffer-law.com) or (860) 216-1965.

[www.schaffer-law.com](http://www.schaffer-law.com)