

Case Name, Citation: O'Connor v. PCA Family Health Plan, Inc., 200 F.3d 1349

Procedural History: Johnson represents the appellee, O'Connor, and representing the appellant PCA is Cornell, Jr. In July 1996, Appellee filed a complaint with the U.S. District Court for the Southern District of Florida, alleging their former company PCA, violated the Family and Medical Leave Act ("FMLA") while on an approved FMLA leave. The Appellee's FMLA suit was adjudicated during a bench trial before the district court. The judgment held that PCA didn't violate FMLA terms by terminating the appellee during FMLA leave. The appellee also filed charges with the Equal Employment Opportunity Commission ("EEOC") and the Florida Commission on Human Relations, alleging PCA discriminated against her gender, age and pregnancy status, violating Title VII of the Civil Rights Act of 1964 ("Title VII"), the Age Discrimination in Employment Act of 1967 ("ADEA"), and the Florida Civil Rights Act. The EEOC took no action on the complaint, but O'Connor later requested and received her Notice of Right to Sue. The appellee with her "right to sue" filed another suit against PCA for various discrimination charges found in her EEOC complaint. PCA moved for summary judgement citing *res judicata*, arguing that the appellee's FMLA suit birthed the EEOC suit. The district court agreed, and granted a summary judgment in June 1998.

Facts: In March 1995, appellee/O'Connor began employment with appellant/PCA in their Florida office. In August, O'Connor learned and notified PCA of her pregnancy, intending for maternity leave, and post-natal care. PCA's employee benefit policy allowed O'Connor various options including, FMLA leave, sick/vacation leave, short-term disability leave, and leave without pay. O'Connor and her various supervisors requested for FMLA leave from April to August 1996. PCA's regional Human Resources Department ("HRD") for the Florida office, approved a leave from April to July 1996. O'Connor gave birth in May of 1996. As a solution for previous financial issues, PCA planned a reduction in force, the first phase starting July 1996 ("RIF I"). RIF I would cut 190 employees from various departments in the Florida office, submitted from supervisor-created lists. O'Connor's name was included. The HRD also flagged two other employees who would be on leave, while RIF I began, planning to reassess their employment status until they returned. O'Connor's name wasn't flagged, and she was terminated in July 1996.

Issues: Did PCA violate FMLA by continuing with O'Connor's termination? Did PCA HRD err in their failure to reinstate O'Connor after her termination? Was O'Connor discriminated against for her gender, pregnancy status, and age?

Answer: The appellate found error in the district court's evaluation of any violation of FMLA., but chose to resolve it by evaluating the interference claim. After review, the court held that no parts of FMLA were violated in O'Connor's termination. Regarding O'Connor's job reinstatement, the court found no error from PCA in formally restoring O'Connor's position after the initial verbal offer. Regarding any discrimination against O'Connor, the court found no fault on PCA.

Holding: Affirmed with the district court in each case.

Reasoning/Rationale: The district court only saw O'Connor's FMLA suit alleging retaliatory treatment, due to phrasing argued by PCA and vague phrasing by O'Connor, although she raised both retaliatory and interference

claims in the record. The appellate court reevaluated O'Connor's argument and PCA's raising of the Joint Pretrial Stipulation case statement, and looked to Diaz v. Fort Wayne Foundry Corp., which establishes an interference claim. The case, also argued by O'Connor, the court uses to establish several times, that although accurate, doesn't apply to O'Connor's suits (FMLA and EEOC). The plaintiff properly requested and was denied his twelve weeks leave for medical reasons, authorized by 29 USCS § 2612 of FMLA. The court also references Ilhardt v. Sara Lee Corp., 118 F.3d 1151, 1157 (7th Cir.1997), giving an employer rights to terminate those on FMLA, as part of a RIF, as regulated by the Department of Labor in 29 C.F.R. § 825.216(a) (1999). This rule is how the court reasoned that O'Connor wasn't entitled to reinstatement or further benefits, and no interference was found, if the company can prove the termination still would've occurred even if not on FMLA leave, and such benefits end at their termination. The appellate court argues that O'Connor never raised a defense for her employment status sans her FMLA leave, and that the other employees who were held for reassessment was a voluntary employment policy, not binding PCA to statutory laws. The court argues that the nonremovability of O'Connor's name from RIF I was an oversight, and nothing retaliatory against her FMLA leave. Lastly, with the EEOC suit and discriminatory claims, the appellate finds that the EEOC suit doesn't include new situations of any alleged discrimination, and therefore res judicata applies due to varying factual circumstances, barring any judgment of O'Connor's second suit. O'Connor argued that the EEOC included different claims since she received her Right to Sue Notice after the FMLA suit had already went through. The court establishes that O'Connor's argument under Pleming v. Universal-Rundle Corp., 142 F.3d 1357, is inapplicable, due to the plaintiff properly bringing new discriminatory claims in differing suits, at the holding of the judge.