

FMLA: Employee Entitled To Same Or Equivalent Position Upon Return.

A registered nurse was working as a shift coordinator when she elected to take Family and Medical Leave Act (FMLA) leave for a wrist injury.

When she returned she had a two-pound lifting restriction from her physician. She was not reinstated as shift coordinator but was told to see what else was available within the hospital system and to apply for something else.

She sued for violation of the FMLA.

After FMLA leave an employee must be restored to the same or an equivalent position, if the employee is physically able to meet its demands, even if the former position has gone to someone else or been restructured in the mean time.

UNITED STATES DISTRICT COURT
TEXAS

January 4, 2007

The US District Court for the Southern District of Texas saw grounds for her lawsuit.

A residual two-pound lifting restriction would be incompatible with being restored to a staff nursing position, and a hospital would have no obligation to restore a staff nurse to staff nursing who returned with a major lifting restriction.

However, the shift-coordinator position she had had was basically administrative and, according to hers and others' testimony, it never required any lifting whatsoever. She was entitled to her same job or another administrative job with the same hours, pay, benefits, authority, responsibility, etc. **Greenlee v. Christus Spohn Health Systems**, 2007 WL 38284 (S.D. Tex., January 4, 2007).