



Akron Legal News

A DAILY NEWSPAPER DEVOTED TO LEGAL, FINANCIAL, REAL ESTATE AND GENERAL NEWS

Designated by the Federal, County and Municipal Courts as the Official Law Journal of Summit County

VOL. 94 NO. 46

OhioLegalNews.com

Akron, Ohio, Tuesday, March 10, 2015

(USPS 010-800)

75¢

INSIDE • Heroin dealer with shotgun under mattress loses appeal Page 3 District court: Appeal from Walmart thief is wholly frivolous Page 3

Akron store lets customers buy pieces of yesteryear

Today in the Legal News

BUSINESS SECTION

Page 14

PHONE NUMBERS

Area code 330 unless otherwise indicated

Community Services

Alcoholics Anonymous 253-8181

Battered Women's Shelter 1-888-395-(HELP) 4357

Community Legal Aid Services 535-4191

Fair Housing Contact Service Inc. 376-6191

Rape Crisis Center 1-877-906-(RAPE) 7273

Summit County Juvenile Court Family Resource Center 379-3613

Visitors Information

Akron/Summit County Convention & Visitors Bureau 374-7560

Toll Free 1-800-245-4254

Transportation

Akron-Canton Regional Airport 499-4221

Akron METRO Bus System 762-0341

Greyhound Bus Lines 434-9185

Neo Executive Sedans & Taxi 777-5454

City Yellow Cab 234-542-3941

AAA Ohio Motorists Association 923-4826

AAA Emergency Road Service- 800-447-4888

Government Services

Weather & Time National Weather Service 1-216-265-2370

Poison Control Center 1-800-872-5111

INSIDE

Business Section	14
Classified Advertising	16
Common Pleas Court	4
Community Calendar	16
Crossword Answers	16
Domestic Relations	7
Legal Notices	8

CONTACT

Ohio Legal News.com
Akron Legal News
(330) 376-0917
60 S. Summit Street
Akron, OH 44308

FMLA rule change takes effect March 27

SHERRY KARABIN
Legal News Reporter

Public agencies and many private employers may need to revise policies and procedures that pertain to the federal Family and Medical Leave Act (FMLA).

This after the United States Department of Labor (DOL) issued a final rule on Feb. 25 that revised the regulatory definition of "spouse" under the FMLA.

Previously, the definition did not include same-sex spouses if an employee lived in a state that did not recognize his/her same-sex marriage. Now the DOL is looking at the worker's "place of celebration" to determine if the employee is legally married and thus qualifies as a "spouse" under the FMLA.

The DOL website states that the definition of a "spouse" now "expressly includes individuals in lawfully recognized same-sex and common law marriages and marriages that were validly entered into outside of the United States if they could have been entered into in at least one state."

According to a DOL press release, the change is consistent with the U.S. Supreme Court ruling in *United States v. Windsor*, which struck down the federal Defense of Marriage Act provision that interpreted "marriage" and "spouse" to be limited to opposite-sex marriage under federal law.

"The basic promise of the FMLA is that no one should have to choose between the job and income they need and caring for a loved one," said U.S. Secretary of Labor Thomas E. Perez in a press release.

"With our action today, we extend that promise so that no matter who you love, you will receive the same rights and pro-



Tom Crookes



Christopher Congeni

tections as everyone else. All eligible employees in legal same-sex marriages, regardless of where they live, can now deal with a serious medical and family situation like all families – without the threat of job loss."

"It was only a little over a year ago that the DOL changed the rules to include same-sex married spouses whose marriages were considered legal in the state where they resided," said Tom Crookes, a partner in the labor and employment group at Vorys, Sater, Seymour and Pease.

Crookes said the change, which takes effect March 27, means "if an Ohio couple was married in New York for instance, and one of the spouses becomes ill, the other one has the right to request FMLA leave to care for the ill spouse."

He said it would also allow a same-sex spouse to take time off to care for his/her partner's ill children.

"I think the DOL is foreseeing where the courts are going with the same-sex marriage issue," said Crookes.

"As more states legalize same-sex marriage it makes sense to

look to the place where the marriage took place versus where the couple reside."

Enacted in 1993, the FMLA requires private companies who employed 50 or more workers for at least 20 weeks during the current calendar year or the previous one to allow certain employees to take up to 12 unpaid workweeks off in a 12-month period for specified family and medical reasons without the threat of losing their jobs.

During that time, the employer also has to maintain the person's health insurance at the same level prior to the leave.

Public agencies, including federal, state and local employers as well as schools must also follow the rules.

To qualify the employee must have worked for the business for at least 12 months, putting in a minimum of 1,250 hours during the 12 months prior to starting leave, in a location with 50 or more workers or at a site within 75 miles of a place that has 50 or more employees.

"I think the rule change will likely impact smaller employers more than large companies since they will have to scramble

to find other people in the company or temps to perform the work of the employee on leave," said Crookes.

"Larger companies will find it easier to spread the duties out since they have more workers."

"The Final Rule does not require states to recognize or give effect to same-sex marriages or to provide any state benefit based on a same-sex marriage," said Christopher Congeni, a partner in Brennan, Manna & Diamond's healthcare, labor and employment, intellectual property and litigation departments.

"It's really not that much of a change," said Congeni. "Whether or not a company is in favor of it, it is important that they follow the rules to the letter."

"I think it may require some additional training within the human resources department."

He said many companies, including those with over 300 employees, are still a bit fuzzy on how to handle FMLA requests, which may put the business at risk for lawsuits.

"Many companies make mistakes when handling FMLA claims, the question is how much exposure is the company risking,"

Congen said many FMLA lawsuits are part of a larger retaliation claim, in which an employee argues that he/she was treated unfairly, denied a promotion or let go because of FMLA leave.

"While the FMLA portion of the suit may be dismissed, everyone knows that retaliation claims survive," said Congeni.

He said businesses should appoint one person within the human resources department to be the FMLA point person to help minimize problems.

"The new rule does have the potential to add another layer of retaliation and we don't need any new layers," Congeni said.

Man who drove prostitute to appointments loses appeal

In Ohio's 9th District Court of Appeals, a panel of three judges recently affirmed the judgment of the Summit County Court of Common Pleas in a prostitution case.

The defendant, Paul Marcel-Rene was arrested on Nov. 6, 2013 when state and federal law enforcement officers conducted a prostitution sting operation at a hotel in Green.

As part of the operation, an undercover officer contacted a prostitute named E.C. and arranged to meet her at a hotel.

Officers who were maintaining surveillance of the hotel parking lot noticed that the vehicle that dropped E.C. off remained in the

Appellate Notebook

Annie Yamson

area.

After arresting E.C., police approached the vehicle and found Marcel-Rene who claimed that he was in the parking lot because he got lost on his way to Walmart.

Marcel-Rene was arrested for procuring and police discovered he was required to register his address every 90 days because of a prior conviction.

Marcel-Rene was registered at an address that he shared with his wife.

However, evidence suggested that he had been living at a home with his girlfriend, who eventually broke it off with him because she found out that he was married.

Marcel-Rene's sister testified that he was "fixing up his love nest" for him and his mistress.

A jury found Marcel-Rene guilty of failure to provide notice of a change of address, procuring and promoting prostitution. He was sentenced to seven and half years in prison.

On appeal to the 9th District Court, Marcel-Rene challenged the sufficiency and manifest weight of the evidence supporting his conviction.

According to him, he knew E.C. was a prostitute but he never spoke to her clients or arranged her meetings.

Marcel-Rene argued that he merely provided a taxi service for E.C. when she had a client that she needed to meet.

E.C. testified that, on the day of her arrest, Marcel-Rene contacted her to see if she was available for a date.

He told E.C. that someone had contacted him about hiring a certain prostitute but the woman was unavailable. He wanted to know if E.C. could "substitute."

E.C. stated that she agreed to
Continued on Page 2

Competency. Knowledge. Integrity. Northeast Ohio's Valuation Experts.

Credentialed Valuation Experts | www.bcgcompany.com/forensic-and-valuation | 330.864.6661

Forensic & Valuation Services

