



california supreme court's "serious health condition" decision: a serious headache for employers

MSK Client Alert

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The California Family Rights Act ("CFRA"), like the federal Family and Medical Leave Act ("FMLA"), allows an employee to take a medical leave of absence when, due to a "serious health condition," the employee is "*unable to perform the functions of the position of that employee.*" Thus, based on the plain language of the statute, most employers would probably assume that an employee seeking a medical leave from one employer, while at the same time continuing to *perform the same job for another employer*, would not be entitled to leave. In *Lonicki v. Sutter Health Central* 43 Cal. 4th 201 (2008), however, the California Supreme Court ruled that a "serious health condition" may make an employee unable to work for one employer, but not another.

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