

HR Weekly Podcast  
March 18, 2015

Today is March 18, 2015, and welcome to the HR Weekly Podcast from the State Human Resources Division. This week's podcast focuses on a recent ruling by a federal district court in the case of *Santiago v. Department of Transportation*.

Samuel Santiago was a material storage supervisor for the Connecticut Department of Transportation, or DOT, a position that required considerable overtime during the snowy winter months. Santiago was diagnosed with cluster headaches, which are more severe than migraine headaches. He and his doctor determined that working overtime was one of the main factors that caused his cluster headaches and recommended that he work a limited schedule. He requested to take intermittent Family Medical Leave Act, or FMLA, leave whenever overtime was required.

DOT argued that overtime was an essential function of the position and that no other position was available that would meet his needs. DOT offered him the option of disability retirement or termination since he could not perform the essential functions of the position. DOT also determined that he did not qualify for intermittent leave since the medical documentation did not contain information about ongoing medical treatment, therefore not meeting the definition of a serious medical condition.

Santiago sued DOT for interfering with his FMLA rights by denying him leave under FMLA. The court ruled that the FMLA was different from American with Disabilities Act, or ADA, and the inability to perform essential functions plays no role in determining whether an employee qualifies for FMLA leave. Also, FMLA does not include an "undue hardship" defense, like under ADA; so, employers are required to provide the statutorily mandated 12 weeks of FMLA leave regardless of the hardship that results.

FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule when medically necessary to care for a seriously ill family member, or because of the employee's own serious health condition. Additional information on FMLA can be found on the Department of Labor's website:

[www.dol.gov/whd/regs/compliance/1421.htm](http://www.dol.gov/whd/regs/compliance/1421.htm). Thank you.