

# Hamilton County LAW LIBRARY NEWS

Professional legal information, services, and education

November 2017

## Employment Law Q&A: 5 ways to address intermittent leave under the FMLA

By Ryan Neumeyer of McDonald Hopkins LLC. (c) 2017 McDonald Hopkins LLC.

Administering intermittent leave under the Family and Medical Leave Act (FMLA) can be a frustrating experience for employers to deal with. An understanding of what the law covers, and a good dose of patience, can help an employer through FMLA challenges.

**Q: HOW CAN MY COMPANY ADDRESS OR EVEN PREVENT ABUSE OF FMLA INTERMITTENT LEAVE OR REDUCED SCHEDULE ABUSE?**

**A:** First, it's important to understand what the FMLA covers.

- The FMLA provides certain employees with up to 12 workweeks of unpaid, job-protected leave per year.
- The FMLA allows employees to take leave in consecutive days, "intermittently," or on a "reduced leave schedule." These are two different ways to use FMLA time that are often confused.
- **Intermittent leave** is FMLA leave taken in separate

blocks of time for a single illness or injury.

- **Reduced leave schedule** reduces an employee's usual number of working hours per workweek, or hours per workday. It is a change in the employee's schedule for a period of time, normally from full-time to part-time.

Intermittent and reduced schedule leave may be taken when medically necessary:

- To care for a seriously ill family member.
- Because of the employee's serious health condition.
- To care for a newborn or newly placed adopted or foster care child only with the employer's approval.

Only the amount of leave actually taken while on intermittent/reduced schedule leave may be charged as FMLA leave. Employees may not be required to take more FMLA leave than necessary to address the circumstances that cause the need for leave. Employers may account

*(Continued on page 4)*

### Inside this issue:

Intermittent FMLA	1
Tech Tip: Fastcase	2
Upcoming CLE	3
Subscriber Renewals	5
Holiday Open House	6
Family Law Resources	7

### Hamilton County Law Library

Hamilton County  
Courthouse  
1000 Main Street  
Room 601  
Cincinnati, OH 45202  
T:513.946.5300  
F:513.946.5264

Open Monday-Friday 8 - 4

<http://lawlibrary.hamilton-co.org>

# Tech Tip: Fastcase 6 or Fastcase 7, you choose

## Julie Koehne, Systems Librarian

Fastcase currently allows you to choose between two separate versions to view the databases. It is super easy to toggle back and forth between the two versions. To change versions, locate the toggle switch in the top menu bar, then slide it to the right for Fastcase 7 and to the left for Fastcase 6.



Both versions use the same search Boolean operators. Fastcase 6 searches individual library databases whereas Fastcase 7 performs a search over all the different libraries and is mobile-friendly for the on-the-go researcher.

## Upcoming CLE

Free to subscribers; \$50 for non-subscribers  
Registration is required. To register, call  
513.946.5300, email

[reference@cms.hamilton-co.org](mailto:reference@cms.hamilton-co.org), or  
register via the website

[http://lawlibrary.hamiltoncountyohio.gov/  
classes/calendar/](http://lawlibrary.hamiltoncountyohio.gov/classes/calendar/)

### Unique Issues in Same-Sex Divorce

Presenter: Cathy Cook

Thursday, November 16, 2017

Noon-1pm

Approved for 1.0 hour of general credit in  
Ohio and Kentucky

### Online Legal Research: Getting the Most Out of Your Law Library Subscription

Presenter: Laura Dixon-Caldwell

Wednesday, December 6, 2017

Noon-1pm

Approved for 1.0 hour of general CLE credit  
in Ohio and Kentucky

**\*Note-this CLE was previously presented  
at the Law Library on February 15, 2017.**

## CLE Replay Day-Tuesday, December 12

### Video Replay: 60 Apps in Sixty Minutes

Presenter: Mary Jenkins

Tuesday, December 12

9:00am-10am

Approved for 1.0 hour of general CLE credit  
in Ohio and 1.0 hour of self-study/  
technological credit in Kentucky.

**\*Note this program was previously  
presented at the Law Library on  
February, 24, 2016 and December 15,  
2016.**

### Video Replay: Elder Law Challenges in Ohio: Nursing Homes, Hospice, Dementia and Payments

Presenter: Jim O'Reilly

Tuesday, December 12

10:30am-11:30am

Approved for 1.0 hour of general CLE credit  
in Ohio and 1.0 hour of self-study/  
technological credit in Kentucky.

**Note-This program was previously  
presented at the Law Library on Decem-  
ber 15, 2016.**

### Video Replay: Legal Ethics & Access to Justice

Presenter: Lauren Morrison

Tuesday, December 12

Noon-1pm

Approved for 1.0 hour of attorney profes-  
sional conduct CLE in Ohio and 1.0 hour of  
ethics self-study/technological credit in  
Kentucky.

**Note-this program was previously pre-  
sented at the Law Library on August 31,  
2016 and December 15, 2016.**

## 2018 Library Board Meetings

The Hamilton County Law Library  
Resources Board has established its regu-  
lar quarterly meeting schedule for 2018.

The Board will meet on January 11, April  
12, July 12, and October 11. All meetings  
are held at 12:00 noon in the Law Library's  
Robert S. Kraft Board Room. Meetings are  
open to the public. Minutes of previous  
meetings are on the [Governance web-  
page](#).

(Continued from page 1)

For FMLA leave in the shortest period of time that their payroll systems use, provided it is one hour or less.

These types of leave can wreak havoc on employer's scheduling and overall production. In addition, the nature of intermittent leave and reduced schedule leave can, at times, lend itself to employee abuse. One of the most difficult issues that employers have to deal with is administering intermittent or reduced schedule leave and curbing abuse.

### **5 FMLA COMPLIANCE STRATEGIES THAT WILL ASSIST IN CURBING ABUSE:**

1. **Address scheduling issues early in the process.** Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their employers to schedule the leave so as not to unduly disrupt the employer's operations, subject to the approval of the employee's health care provider. Make sure that employees requesting intermittent or reduced scheduled leave for planned treatment understand the process for working with the employer to properly request and schedule that time off.
2. **Provide the healthcare provider with necessary information.** Make the employee's healthcare provider aware of the employee's job duties and inquire as to whether there are any accommodations that would allow the employee to perform job functions.
3. **Recertify FMLA leave every six months.** The FMLA allows an employer to recertify the FMLA qualifying condition every six months. Make sure that you do so. Keep track of the employee's use of FMLA leave and submit it to the physician to determine whether the leave was consistent with the employee's need for such time off for the qualifying condition.
4. **Enforce company call in policies and procedures.** Employers can require employees using intermittent FMLA to use the standard company call in procedure when using FMLA time. So, make sure employees understand that requirement. The call in procedures should be applied consistently to all employees whether on FMLA leave or not. Further, policies and procedures must be uniform and not an ad-hoc supervisor-per-supervisor policy. Elements of a good notice procedure include:
  - Submit requests for foreseeable leave in writing.
  - Use a uniform call-in number to notify the employer of absences that are unforeseen.
  - Require unforeseeable absences to be reported within a definite time window.
  - Have requests for leave are submitted to a designated individual.
  - Ensure that proper FMLA [medical certification forms](#) are used, provided to, and returned by employees who make a request for leave.
5. **Consider a transfer when appropriate.** When intermittent leave is used for planned medical treatment, an employer may transfer the employee temporarily to an alternative job with equivalent pay and benefits that accommodate recurring periods of leave better than the employee's regular job.

The best way to address FMLA abuse is to ensure that your business has a sound FMLA policy. The employer must then make

sure it uses the tools that are available to combat FMLA abuse. Elimination of FMLA abuse completely is not possible, but some planning and a little extra effort will go a long way to minimizing such abuse.

(c) 2017 McDonald Hopkins LLC.

## HeinOnline Training

Need to quickly find a Law Review article or the Congressional Record? Law Library subscribers have remote access to Hein Online.\* Join us for a live HeinOnline webinar here at the Law Library. The training will cover basics and search tips.

### [HeinOnline Webinar](#)

Monday, November 20

11am-12pm

**Note: this is not a CLE program.**

\*Remote access to Hein Online is available to subscribers who are solos or firm attorneys at firms with 50 or fewer attorneys.

## Overdrive eBooks

The Law Library is excited to announce a collection of new titles in our OverDrive eBooks library. Formerly called the “Lexis Digital Library” because we only included Lexis titles in ebook format, we’ve now rolled out “OverDrive eBooks,” which includes both the Lexis content you have seen before and a new collection of titles from West Academic. The interface is the same, providing ease of access to digital content right from your computer or digital device. The new collection includes hornbooks on contract law, bankruptcy law, criminal procedure and evidence, among many others. You may borrow up to five items at a time for a one-week pe-

riod each. Just click the link from our [databases](#) page and log in using your Law Library username and password. Don’t know your username and password, or need help navigating the site? Feel free to call reference at 513-946-5300 or email at [reference@cms.hamilton-co.org](mailto:reference@cms.hamilton-co.org) and we’ll be happy to help!

## Subscriber Renewals for 2018

We will mail subscriber renewal invoices in early December. Prices for 2018 remain the same. We will be in touch with firms before sending invoices to verify any attorneys who have left or joined the firm this year. We’re also able to accept credit cards for subscriber payments and renewals for your convenience. There is no fee for attorneys in their first year of practice after passing the bar exam so please share that good news with the new attorneys in your circles of influence. The library board and staff believe that the value of law library services and resources far exceeds the annual fee. We hope that reflects accurately your own experience.

## Can’t Find your Favorite Book?

For anyone who has visited the Law Library recently, you may have noticed our State Room looking a little different. In anticipation of our upcoming renovations, which will bring you new state-of-the-art conference rooms and a comfortable new subscriber lounge, we have moved all of the print materials from our State Room to the Text Room (across the way) and the Main . Please don’t hesitate to ask our friendly staff for help in tracking things down.

## Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to six weeks at a time

Access to extensive legal information databases from the Law Library, including Westlaw, IntelliConnect, Lexis Digital Library e-books, HeinOnline, and Loislaw treatises

Wireless network throughout the Law Library

Polycom videoconferencing

Five meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

CLE seminars throughout the year, on legal research and substantive topics

Subscribers' lounge, magazines, daily newspapers, and coffee

Bi-weekly news alerts by practice area

Discounted rates for photocopying

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/LOISLaw treatises, HeinOnline (for under 50 attorney firms), EBSCOhost, and IntelliConnect Law, Business, Tax, and Accounting

An add-on plan for Lexis access is available for subscribers in solo practice



## Law Library Newsletter

Beginning in January 2017, the Law Library will no longer mail out print copies of our monthly newsletter. You can sign up to receive the email version [here](#). Check out Julie Koehne's Tech Tip with instructions from our [October](#) issue. If you have any questions or concerns, contact [Laura Dixon-Caldwell](#).



## Family Law Resources

Law Library subscribers have access to a variety of resources on Family Law. If you have questions, or have a suggestion for a title to add, contact the reference staff at [reference@cms.hamilton-co.org](mailto:reference@cms.hamilton-co.org) or 513.946.5300

Advanced issues in family and divorce law [in Ohio].  
KFO100.A75 A393 2014

Anderson's ... Ohio family law.  
KFO94 .A95

Bankruptcy in divorce [in Ohio].  
KFO100.A75 B36 2015

The complete guide to mediation : how to effectively represent your clients and expand your family law practice /  
KF505.5 .M675 2015

Divorce & money : how to make the best financial decisions during divorce  
KF524 .W66 2013

Domestic relations law [Kentucky]  
KF1280 .K4 v. 15-16

Domestic relations laws & rules annotated including family law [Ohio]  
KFO94 .Z95 B341

Family law : relocation, social media evidence, same sex unions, and other current issues [in Ohio].  
KFO100.A75 F36 2015

Family law in a nutshell  
KF505.Z9 K7 2017

Family law trial evidence handbook : rules and procedures for effective advocacy  
KF505 .P47 2013

Introduction to domestic relations practice  
KFO100 .I6 2014

Ohio domestic violence law.  
KFO94.Z9 A3

### Online Resources-Remote Access\*

#### **Fastcase Loislaw Treatises**

Child Support Guidelines: Interpretation and Application, 2nd Edition

Drafting Prenuptial Agreements

Psychological Experts in Divorce Actions

Qualified Domestic Relations Order

Handbook

Valuation Strategies in Divorce

Value of Pensions in Divorce, 5th edition

Valuing Specific Assets in Divorce

#### **EBSCO**

Building a Parenting Agreement That Works

Divorce & Money

Divorce After 50

Divorce Without Court

Judge's Guide to Divorce

Nolo's Essential Guide to Divorce

Prenuptial Agreements

\*Remote access is available to subscribers who are solos or firm attorneys whose entire firm has a subscription to the Law Library.

### Upcoming Events:

November 16: CLE: Unique Issues in Same Sex Divorce

November 20: HeinOnline Training

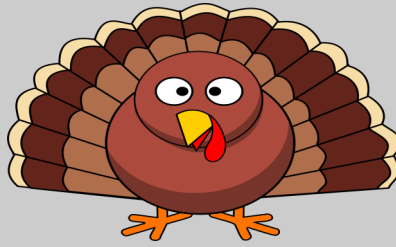
December 6: CLE: Online Legal Research: Getting the Most out of Your Law Library Subscription

December 6: Holiday Open House

December 12: CLE Replay Day

### Law Library Holidays

The Law Library will be closed Thursday, November 23 and Friday, November 24 in honor of Thanksgiving.



# November 2017 Law Library Newsletter

**INSIDE THIS MONTH**

- FMLA
- Tech Tip: Fastcase
- CLE
- Holiday Open House
- Subscriber Renewals

ADDRESS CORRECTION REQUESTED

Hamilton County Law Library  
Hamilton County Courthouse  
1000 Main Street, Room 601  
Cincinnati, OH 45202