

Insights: Publications

3 Key Takeaways | Navigating Leave Laws: Workers Compensation, FMLA and ADA - Understanding Compliance in a Law Firm Environment

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Kilpatrick partner [Jeralyn Baran](#) recently presented to the **Association of Legal Administrators (ALA) Certified Legal Manager (CLM) Study Group** on the topic of “**Navigating Leave Laws: Workers Compensation, FMLA and ADA - Understanding Compliance in a Law Firm Environment.**”

Key takeaways from her presentation include:

1. Determine Eligibility and Coverage under FMLA and ADA

- **FMLA:** Confirm whether the employee meets the eligibility requirements:
 - At least **12 months of service**,
 - At least **1,250 hours worked** in the past year, and
 - Works at a location with **50 or more employees within a 75-mile radius**.
- **ADA:** Determine whether the employee has a **qualifying disability** that substantially limits one or more major life activities.
- **Key Distinction:**
 - **FMLA leave** is guaranteed if the criteria are met.
 - **ADA leave** is based on what is reasonable and may vary case by case.

2. Coordinate and Distinguish Between Leave Types

- **FMLA** offers **up to 12 weeks of job-protected leave** in a 12-month period.
- Under the **ADA**, additional leave *beyond FMLA* may be required as a **reasonable accommodation**, unless it causes **undue hardship**.
- **Important:** Never automatically terminate employment when FMLA leave ends—evaluate whether **ADA obligations** still apply.

3. Maintain Consistent Documentation and Communication

- Engage in the **interactive process** under the ADA when an employee requests leave or an extension; this is not a one and done situation.

- Gather information, explore accommodation options, choose an accommodation, implement the accommodation and monitor the accommodation.
- Maintain clear, consistent **documentation** for:
 - Medical certifications,
 - Leave and accommodation requests,
 - Interactive processes, and
 - All related communications.
- Train HR and supervisors to avoid **interfering with or retaliating against** employees for exercising rights under either law.

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Related People



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