

Erlich Law Firm Seeks Summary Judgment Against Southwest in FMLA Interference Case

Oakland, California – Erlich Law Firm has filed a motion for partial summary judgment in a closely watched lawsuit against Southwest Airlines, alleging the airline’s attendance policy unlawfully penalizes flight attendants for exercising their rights under the Family and Medical Leave Act (FMLA). The motion is slated for a hearing on November 13, 2025, at the United States District Court for the Northern District of California, before Judge Jacqueline Scott Corley. The lawsuit, representing a nationwide class of Southwest flight attendants, contends that the airline’s policy of assessing disciplinary points for attendance violations violates FMLA provisions. The policy, the plaintiffs claim, effectively punishes employees by removing key benefits when they take leave, leading to terminations upon accumulating 12 points. These benefits include point-reduction incentives for good attendance, which are crucial for avoiding disciplinary action. According to court documents, the crux of the plaintiffs’ argument is that Southwest’s policy is not merely a permissible “freeze” of benefits during leave but a flat-out penalty that contravenes the FMLA’s protective statutes. The airline’s attendance policy disqualifies flight attendants from earning up to four point-reduction benefits if they take FMLA leave, a practice the plaintiffs argue poses a substantial deterrent against exercising legally protected leave.

Attorney Jason Erlich, representing the plaintiffs, stated, “Southwest’s policy forces employees into an untenable choice between taking necessary medical leave and maintaining their employment benefits, effectively undermining the very purpose of the FMLA.”

The motion for summary judgment specifically seeks to establish liability against Southwest for interference under both the FMLA and the California Family Rights Act, citing that the policy discriminates against a subclass of California-based flight attendants. The plaintiffs argue that the undisputed evidence reveals systemic violations by Southwest, which conceded in depositions that a single day of leave could lead to an employee’s ineligibility for point reductions for an entire business quarter.

Southwest Airlines has yet to publicly respond to the motion. The airline had previously characterized the policy as a protective “freeze,” but the plaintiffs argue that this characterization is misleading. The court will review the matter to determine whether Southwest’s conduct constitutes a breach of federal and state leave statutes.

As this legal battle unfolds, the outcome could have significant implications for employment practices across the airline industry, spotlighting the tension between corporate attendance policies and federal leave protections. The case continues to unfold as both parties prepare for the upcoming court date.

CASE INFORMATION

District Court, N.D. California

Refuerzo v. Southwest Airlines Co.

Case No. 3:22-cv-00868-JSC

Erlich Law Firm has more than 20 years of experience in holding employers accountable for their illegal actions against the people who work for them. If you believe your rights at work have been violated, you could potentially be entitled to damages from your employer.

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