

When Your Employees Go to Court – Witness Duty

Working Together

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This post continues the discussion of employees absent from work for attendance at court. As a general proposition, employees who appear in court for their own cases, or on behalf of others, are not excused from work. They must use excused time off, such as vacation or personal time.

One exception is for victims of domestic violence. Conn. Gen. Stat. §31-51ss provides leave, although without pay, for up to 12 days during any calendar year. This leave may be used for civil or criminal court appearances, and for related activities such as medical or psychological care or counseling, receiving services from victim service organizations, or relocation due to family violence. This leave is in addition to family and medical leave, and unlike FMLA which covers employers with 50 or more employees, domestic violence leave is available to employees of any Connecticut employer.

Unlike some other states, Connecticut does not mandate “witness leave” as such. However, anyone who is served with a subpoena or other summons to appear in court is obligated to comply under penalty of law. Since compliance with legal process is presumably an important public policy, termination of an employee who is absent from work for compliance with a subpoena or summons would be in contravention of public policy, and would leave the employer open to a claim of wrongful discharge. In practical terms, a subpoena operates as an excuse for unpaid leave. However, employers should be able to require subpoenaed employees to use vacation or personal time, if available.

Tags: Jury Duty