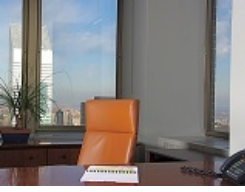


## FORMER AMA EMPLOYEE ALLEGES HE LOST JOB OVER MEDICAL LEAVE FOR SURGERY



If you're planning on taking time off work for necessary surgery, you might want to first be sure that none of the other employees are up for possible termination. An employee at the American Medical Association, William Shaffer, who worked as Director of Leadership Communications, requested FMLA (Family and Medical Leave Act) leave for knee replacement surgery for a period of four to six weeks. AMA had previously decided to cut its upcoming budgets and asked department heads to consider eliminating positions. In October, 2008, Michael Lynch, head of the communications department, had chosen the person who would be terminated. Upon learning of Shaffer's request in the subsequent month, Lynch had an "11th hour change of heart" and opted instead to terminate Shaffer's position, his reasoning being that there would be no "immediate negative impact" since the employee was already preparing for his FMLA leave. Shaffer retaliated by filing suit in federal court. Aware of the potential lawsuit, in February, 2009, AMA HR rep Harvey Daniels had typed handwritten notes that had been taken while he and Lynch were discussing Shaffer's termination. The handwritten notes were shredded, and the typed notes, which specified reasons as to Shaffer's position being eliminated, were dated Nov. 25, 2008. Lynch would later testify that he was still contemplating on which employee would be terminated during the Thanksgiving weekend and had not decided by Nov. 25th. Likewise, Lynch's calendar did not reflect any such meeting with Daniels, though Daniels explained that he had "dropped by Lynch's office" and had not scheduled an appointment. Shaffer's argument was that his termination was the result of his request for leave and therefore violated the Family Medical and Leave Act, which, in Subchapter I, § 2615, makes it "unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subchapter." In opposition to Shaffer's claim, Daniels' typed notes indicated that Lynch would be able to handle the tasks that constituted Shaffer's job. Additionally, in an Nov. 30th email to AMA's Chief Marketing Officer, Lynch stated that the man whose position was originally in jeopardy had "evolved into a flexible utility man who could fill in the gaps." The case was reviewed by the United States Court of Appeals, Seventh Circuit, which acknowledged that a jury might rule in Shaffer's favor. The district court reversed a summary judgment, a decision made by a court without a full trial, against Shaffer. The case was remanded, sent back to a lower court, for trial. In May of 2009, the position initially suggested for elimination was finally eliminated, among approximately 100 layoffs at AMA.

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