

Court Invalidates Some FFCRA Regulations, DOL 'Fixes' Them

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Employers looking to comply with the Families First Coronavirus Response Act (FFCRA) have had a wild ride during the past several weeks. First, a federal judge invalidated several parts of the Dep't of Labor's regulations related to the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act, which are critical components of the FFCRA. Then, the DOL issued new emergency regulations to address the issues raised by the court.

In August, the court struck down (1) the provision that created a paid leave entitlement under certain circumstances for employees only if their employers had work available for them to do; (2) the expansive definition of an excludable "health care provider;" (3) the ability of an employer to withhold consent for intermittent leave; and (4) the requirement of advance documentation of the need for leave.