



Member Lunch

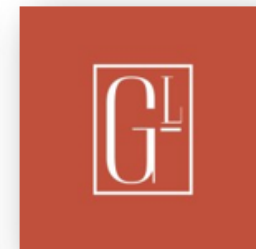
June 1, 2022

Thanks for joining us!

LEAVE, LEAVE, AND MORE LEAVE

The Three Leave Acts Every Employer Needs To Know

*A conversation with Danielle Maya, Partner @
Galvanize Law*



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GALVANIZE LAW

Employment Law Presentation
for Colorado Roofing Association
June 1, 2022



**Leave, Leave,
and More Leave:
The Leave Acts Every
Employer Needs to Know**



PRESENTER SLIDE



DANIELLE MAYA

Founding Partner at Galvanize Law

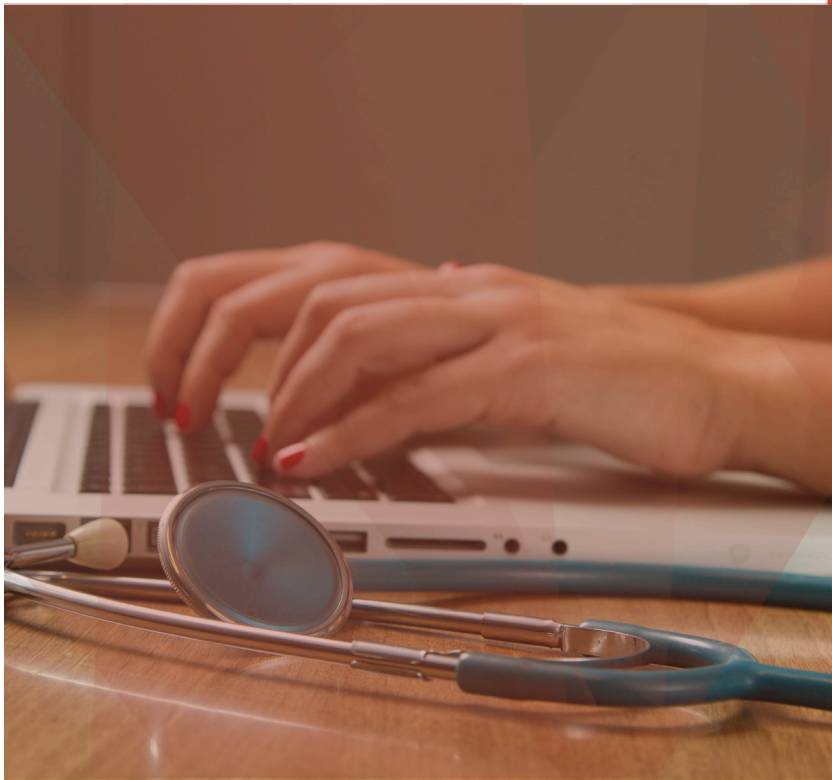
Danielle Maya is an accomplished and effective attorney, with over 20 years' experience serving the construction industry. Danielle's practice encompasses all areas of construction law including employment law, construction defect litigation, lien law, bond law, building code violation defense, OSHA defense, construction license issues, and contract review and drafting.

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Agenda



Presentation Overview

Sick Leave: Colorado Healthy Families and Workplace Act

COVID-19 Leave: Public Health Emergency

Colorado Family and Medical Leave Insurance Program “FAMLI”

Hot Issues for Employers



Colorado Healthy Families and Workplace Act- SICK LEAVE – “HFWA” - Details

- **Who:** ALL employees
- **When:**
 - Effective January 1, 2022, for all Employers
 - Employees start accruing - first day of work
- **Scope:** all employees within the state of Colorado
- **Accrual/Accumulation:** 1 hour of paid sick leave for every 30 hours worked
- **Annual Cap 48 hours**
- **Carry Over**



HFWA/Sick Leave Details

- **How is it taken?** upon request by employee
- **What qualifies as sick leave (authorized purpose)?**
- **Substantiation/Proof of Sickness?**
- **Time Increments – 1 hour**
- **No Retaliation**
- **Employer Policy Documentation**
- **Best practices:** do not combine sick leave and PTO



HFWA/Sick Leave - Notice, Records & Actions

- **Content of Notice to Employees** – Policy
- **How to give Notice**
- **Records - Employer MUST maintain** – 2 years
- **Demand or complaint with CDLE** – 14-day
response



HFWA - Policy

- **Policy must state** – policy provides PTO or Sick Leave
 - in an amount sufficient to satisfy HFWA rules;
 - for all the same purposes covered by HFWA;
 - and
 - under the same conditions as under HFWA.

Quiz:
**Co Healthy
Families and
Workplace Act**



An employee
accrues one hour
of sick pay for
every _____
hours worked?

A: 8 hours

B: 12 hours

C: 24 hours

D: 30 hours



COVID-19 Leave – Public Health Emergency Relief – “PHE” Leave - Details

- **Supplement to Colorado Sick Leave – HFVA**
- **Accrues/Starts – first day of work**
- **Public Health Emergency**
- **Amount – ONE TIME, up to 80 hours paid leave**
- **Extended - August 12**



“PHE” Leave

- **When can PHE be used?**
 - **Employee or Family Member**
 - **Care of child or family member if school/childcare is closed due to PHE**
 - **Employee’s health condition makes more susceptible to risk of PHE**



“PHE” Leave

- **Compensation - normal rate**
- **Substantiation Required/Requested - NO**
- **One-time total of 80 hours**
- **What if your sick/PTO is more generous**



Differences: Sick Leave & PHE/Covid Leave

	Sick Leave HFWA	PHE/COVID Leave
Starts	Accrual 1 hour every 30 hours worked	First day
Full Pay	Yes	Yes
Limit	12 months – 48 hours	1-time max total 80 hours
Substantiation	Yes if 4 + days	No
Uses	Sickness & abuse, self & family	Covid related



Colorado Family and Medical Leave Insurance Program “FAMLI” – Overview & Key Points



- **Social Insurance**
- **Partial Wage Replacement**
- **Maximum Leave** - 16 weeks every 12 months
- **Application**
- **Timing**
- **What about Short-Term Disability?**
- **Other States**
- **Administration**



FAMLI Who Benefits?

- **Employees**
 - **Includes migratory worker**
 - **Excludes independent contractor**
 - Free from control
 - Customarily engaged in independent trade, occupation, profession or business
- **Gig & Self Employed**
- **Employers** – recruiting employees from other states



FAMLI – Benefit/Weekly Wage Calculations

Weekly Wage	Weekly Benefit	Maximum Annual Benefit	% of Weekly Wage
\$500	\$450	\$5,400	90%
\$1,000	\$768	\$9,216	77%
\$1,500	\$1,018	\$12,216	68%
\$2,000	\$1,100	\$13,200	55%
\$3,000	\$1,100	\$13,200	37%



FAMLI - Premiums

- **Payments Begin - January 2023**
- **Employer cost and action**
 - **9 or less employees – No Cost to Employer**
 - ½ premiums ($.009 \times \text{total wages} \times 1/2$)
 - **10 or more employees**
 - ½ the premiums ($.009 \times \text{total wages} \times 1/2$)
 - **MUST** be paid by Employer
 - ½ paid ($.009 \times \text{total wages} \times 1/2$) paid by Employee or Employer



FAMLI – Premiums

PREMIUM CALCULATION – One Employee	2023/2024	Beyond/Cap
Wage	100,000.00	100,000.00
Total Premium Percentage of Total Wages	0.9%	1.2%
Annual Premium	\$ 900.00	\$ 1,200.00
Employee's Max Annual Payment	\$450	\$600



FAMLI PREMIUMS V. PRIVATE STD INSURANCE

Assumptions: 10 Employees; average wage \$100,000 ; annual payroll of \$1M

				FAMLI	Private Insurance
Premiums - Employer Paid				\$ 4,500.00	\$ 2,428.80
Premiums - Employee Paid				\$ 4,500.00	\$ 2,428.80
Total Premiums				\$ 9,000.00	\$ 4,857.60
Potential 2023 Premiums					
Premiums - Employer Paid				\$ 6,928.80	
Premiums - Employee Paid				\$ 6,928.80	
Total Premiums 2023				\$ 13,857.60	



Private FAMLI Leave Insurance Requirements



- Equal or more generous benefits than the state program
- Employee contribution must match or be lower than state contribution rate
- Cannot be more restrictive than the state plan



Do All Employers Participate?

- Employers who employ individuals in CO, you plus 1
- Self employed individuals can opt-in
- Local governments in CO can decline but individual employees can opt-in
- Federal employers & employees - excluded



FAMLI Employee Eligibility/Rights

- **Leave & Benefits**
- **Conditions**
 - **“covered individual”**
 - Satisfies one:
 - First Year - New Child
 - caring for a **family member** with a **serious health condition**
 - has a **serious health condition**
 - any **qualifying exigency leave** (military)
 - need for **safe leave** (abuse)



FAMLI – Family Member



- **Family Member**
 - Any child of yours
 - Any parent
 - Legally Married – spouse/domestic partner
 - Anyone



FAMLI – Serious Health Condition

- inpatient care in a hospital,
- hospice,
- residential medical care facility,

OR

- continuing treatment by a **health care provider**



FAMLI – Job Protection

- **Job Protection**
 - Employed 180 days before leave starts
 - Restored to same or equal position
 - Health benefits the same
 - No retaliation
 - No adverse action



FAMLI – Coordination of Benefits

- **Concurrent with FMLA**
- **Concurrent with other leave with disability policy**
- **Concurrent with separate bank of time for paid family & medical leave**
- **Cannot force Employee to use PTO or sick leave**
- **Can agree to use PTO or sick leave to make whole**



Action Items - FAMLI

- **Now** – application, cost
- **3Q/4Q 2022** – update employees
- **Fall 2022** – register with FAMLI Division
- **January 2023** - collect premiums
- **April 2023** – submit premiums
- **January 2024** – employees can take paid FAMLI leave



What if . . . ?

- **I have my headquarters in Wyoming?**
- **Where is the Employee living?**
- **Do I still provide benefits during leave?**
- **Do you have to pay employees wages during FAMILI leave?**
- **Do you have to pay employees commissions or bonuses?**
- **How do you run your business when they are on leave?**
- **What do you do with the temporary worker when the Employee returns?**
- **What about key/highly skilled employees?**
- **What about the 6 weeks of PTO?**



FAMLI Helpful Information/Resources

<https://famli.colorado.gov/>

CDLE_FAMLI_info@state.co.us

<https://cdle.colorado.gov/>

Colorado Revised Statutes § 8-13.3-501-524

Quiz:
Co Family
Leave
Insurance



When do premiums
start being paid?

A: January 1, 2023

B: July 1, 2023

C: January 1, 2024

D: December 31, 2024



Hot Issues for Employers

- **Salary transparency** – job posting requirements
 - post compensation range & benefits
 - advise current employees
- **Non-competes**
 - Trade secret
 - Recovery of training/educational expense
 - Management or their professional staff
- **Disparagement**
- **Commissions/Bonus accrual & payout**



QUESTIONS?





CONTACT US

Learn more:

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Final comments:



- ★ Thank you Danielle & Galvanize Law!
- ★ Thank you to Tradecraft & all the tenants for allowing us to share their workspace.
- ★ Thanks to all of you for attending today's lunch. **Please take a moment to answer the survey and return them to the registration desk.**
- ★ A copy of the presentation will be available at:
<https://www.coloradoroofing.org/member/education>
- ★ Last, If you did not sign the sign-in sheet, please do so before leaving.

Thank You for attending!