

# PUBLICATION

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## Sixth Circuit Decides McDonnell Douglas Applies to FMLA Interference Claims

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***Donald v. Sybra, Inc.*, No. 10-2153, 2012 WL 117612 (6th Cir. Jan. 17, 2012) has settled the issue of whether FMLA interference claims should be evaluated under the *McDonnell Douglas* framework in the Sixth Circuit. The *Donald* court held that the *McDonnell Douglas* test applies.**

Under the familiar *McDonnell Douglas* burden-shifting framework, an employee must first establish a prima facie case of discrimination or retaliation. If the employee succeeds, the burden of production shifts to the employer to articulate a legitimate, nondiscriminatory reason for the action taken against the employee. Upon this showing, the burden shifts back to the employee to prove that the employer's proffered reason was pretextual. Prior to deciding *Donald*, the Sixth Circuit already applied *McDonnell Douglas* to FMLA claims involving indirect evidence of retaliation. However, it was not clear whether *McDonnell Douglas* similarly applied to interference claims.

In the past, courts in other circuits had argued that employer motive plays no role in a claim for substantive denial of FMLA benefits. While the Sixth Circuit had not addressed this issue, at least one district court in this circuit agreed. In settling the issue and holding that *McDonnell Douglas* is appropriate, the *Donald* court considered its prior holding in *Grace v. USCAR*, where it stated that, in an FMLA interference claim, an employer may prove it had a legitimate reason unrelated to the exercise of FMLA rights for terminating an employee.