

III.

current employees in
non-work status

2. Involuntary Medical Leave of Absence:

Our firm is sometimes consulted by employees who have been involuntarily placed on a medical leave of absence. Most often, the employer regards the employee as being psychologically or physically unable to perform the duties of a particular position. The employee is then placed on an involuntary medical leave of absence so that the employer can determine whether the employee is psychologically or physically fit for duty. An involuntary medical leave of absence can be an unlawful adverse employment action depending on the circumstances under which it occurs. For instance, an employer may not place an employee on an involuntary medical leave because the employer suspects, without objective evidence, that the employee is mentally unstable or suffers from an emotional disorder. In order for such action to be lawful, the employer must have clear and objective evidence that there is an immediate safety risk to either the employee, co-employees, or the public. Depending on the employee's goal, our firm can assist in negotiating a return to work on conditions which are fair, reasonable and legal. When this isn't feasible, we can develop a severance plan or assist in the pursuit of other benefits based on disability status such as Workers' Compensation, short-term and long-term disability, Social Security disability, normal and/or disability retirement status