

## **Saiber Secures Summary Judgment for Client in FMLA Case**

June 2, 2021

Saiber attorneys Jennine DiSomma and Vince Cirilli successfully represented their client (“the Company”), a manufacturer of lightweight metals used in the aerospace, automotive, and transportation industries, in connection with a lawsuit filed by a former employee who alleged she was wrongfully terminated after taking time off under the Family and Medical Leave Act (“FMLA”) and the New Jersey Family Leave Act (“NJFLA”).

In the case, the plaintiff had taken an approved 12 weeks off under the FMLA and NJFLA from September 2016 to December 2016, exhausting her entitlement. Following the exhaustion of her leave entitlement, the plaintiff accumulated an additional 11 days of unexcused absences, was issued a Final Written Warning due to the unexcused absences, and was ultimately terminated. The plaintiff sued, arguing that the Company failed to select a method for calculating the 12 weeks of leave, which entitled her to an additional 12 weeks of leave starting January 2017. In addition, the plaintiff argued that she was permitted to use accrued vacation time to extend her protected leave beyond the 12 weeks permitted by law.

On May 28, 2021, the Hon. Madeline Cox Arleo of the United States District Court for the District of New Jersey rejected the plaintiff’s contentions and granted Saiber’s motion for summary judgment. Judge Arleo found that the Company’s employee handbook specified that employees were entitled to 12 weeks of leave in a 12-month, rolling period, meaning that the plaintiff would not become eligible for leave again until September 2017. In addition, Judge Arleo recognized that the plaintiff could not rely on her accrued vacation time to extend her protected leave. Accordingly, Judge Arleo held the Company did not interfere with the plaintiff’s FMLA and NJFLA rights and did not retaliate by terminating her after she accumulated several unexcused absences.