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**CLIENT ALERT – FMLA AMENDED BY
THE NATIONAL DEFENSE AUTHORIZATION ACT FOR 2010**

Dear Client:

Recently, President Obama signed into law the National Defense Authorization Act for Fiscal Year 2010 (the "Act"). The Act is primarily a defense spending bill, but this year, it also included amendments to the Family and Medical Leave Act (FMLA) regarding qualifying exigency and covered servicemember leaves for employees who are relatives of members of the uniformed services.

Prior to these amendments, up to 12 weeks of qualifying exigency leave was available during the designated 12-month FMLA leave year to employees with a covered family member in the National Guard of Reserves that had been called up to active duty or notified of an impending call or order to active duty in support of a contingency operation. Regular Armed Forces members were not seen as being covered by this type of leave. Now, qualifying exigency leave has been expanded to permit an eligible employee to take FMLA leave for a qualifying exigency related to the deployment of a covered family member who is a member of a regular component of the Armed Forces. The Act defines a new term, "covered active duty." Covered active duty, for members of a regular component of the Armed Forces, means duty during deployment to a foreign country; for members of a reserve unit, covered active duty means duty during deployment to a foreign country under a call or order to active duty.

In addition to the changes in qualifying exigency leave, the Act amended the FMLA provision regarding covered servicemember leave. An eligible employee is able to take up to 26 weeks of FMLA leave in the designated 12-month FMLA leave year to care for a covered servicemember with a serious illness or injury, where the employee is a covered family member, i.e., the spouse, son, daughter or "next of kin" of the covered servicemember.

Under the Act, the covered servicemember leave has been expanded to include situations where the employee is a covered family member of a veteran who is undergoing medical treatment, recuperation, or therapy for a serious illness or injury, and who was a member of the Armed Forces (including the National Guard or Reserves) at any time during the five-year period preceding the date of the treatment, recuperation, or therapy. The Act also expands the definition of "serious

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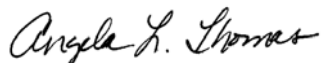
illness or injury” to include an illness or injury that was incurred by the covered servicemember before the member’s active duty and was aggravated by servicemember in the line of duty while on active duty. For veterans, a serious illness or injury is defined to include an illness or injury incurred in the line of duty while on active duty, or which existed prior to active duty but was aggravated by service in the line of duty while on active duty, and that manifested itself before or after the covered servicemember became a veteran.

There is no effective date specified for these provisions. This generally would indicate that the changes became effective when signed into law.

Employers subject to the FMLA should update their FMLA policies and procedures to reflect the changes under the Act. In addition, revised FMLA regulations, as well as a revised FMLA poster, are anticipated from DOL.

If you require any assistance in updating your FMLA policies and procedures or with any other employment law issues, please do not hesitate to contact us.

Sincerely,



Angela L. Thomas



Glenn R. Davis



Daniel R. Jameson

The information herein reflects the views of the author. The information should be construed as general guidelines and not interpreted as legal advice.