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From One-Hit Wonders to Greatest Hits: Building Leave Programs That Last



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INTRODUCTIONS



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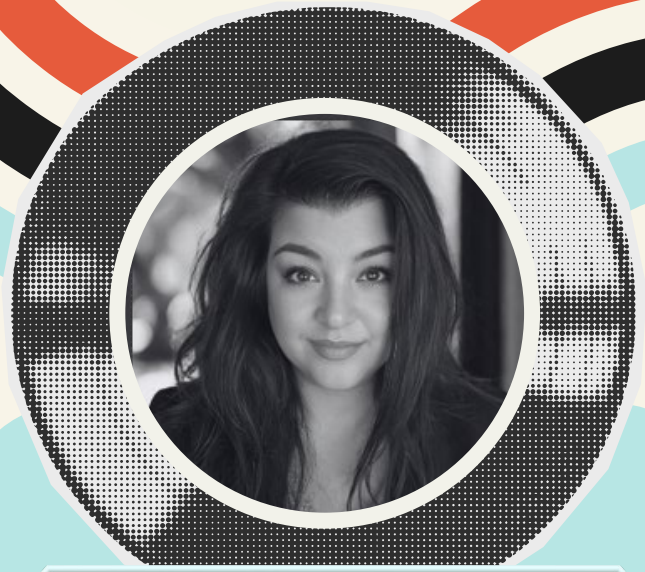

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TRACK LIST

1. ONE HIT WONDERS
2. LEAVE GREATEST HITS
3. ACCOMODATION GREATEST HITS
4. Q & A

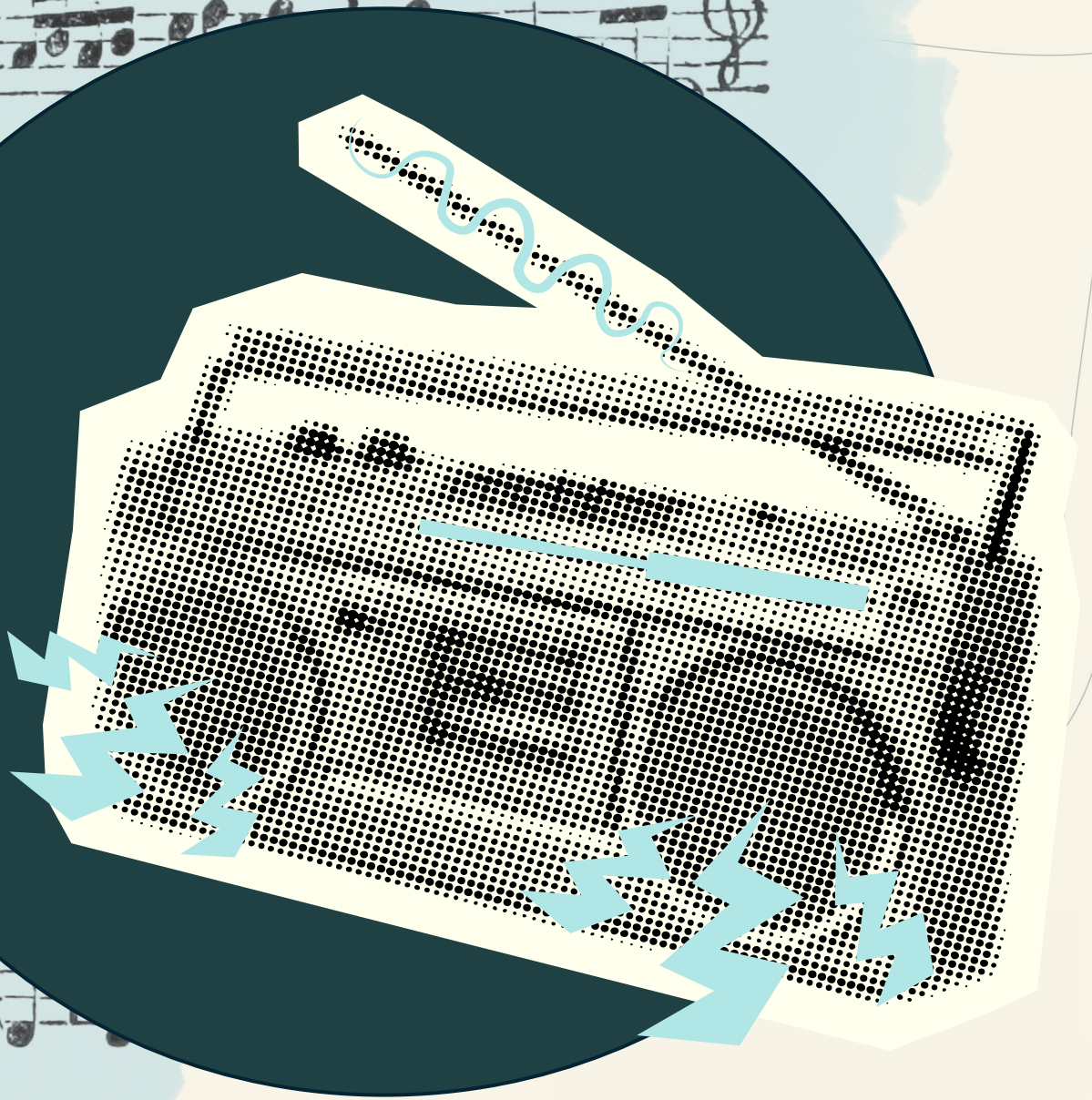
DISCLAIMER

This information is intended for educational purposes only.

This information is not intended to provide legal advice and does not substitute for advice of counsel.

The information within this presentation is current as of June 29, 2026

ONE HIT WONDERS



One Hit Wonders



Automatic Termination/Maximum Leave Policies

- EEOC vs. Princeton Healthcare
- Employee leaves were limited to a maximum of 12 weeks. $1.35M settlement
- Policies that automatically terminate employment or deny additional leave after a fixed period (e.g., 12 months) may fail to meet obligations under the Americans with Disabilities Act. Employers must assess each situation individually.

Relying Solely on Carrier Administration for Compliance Guidance

Manager Lead Leave & Accommodation Approvals

- Managers often lack specialized knowledge, which can lead to missed obligations, discrimination claims, or noncompliance.

100% Healed Return-to-Work Requirements

- EEOC v. Employer Solutions Group
- ESG fired an employee because she needed to use crutches following knee surgery. When the employee attempted to return to work following an approved medical leave, ESG asserted that she needed to be 100% healed to return. $95k settlement
- Employers cannot require employees to be completely free of medical restrictions before returning if they can perform the essential functions of the job with or without a reasonable accommodation.

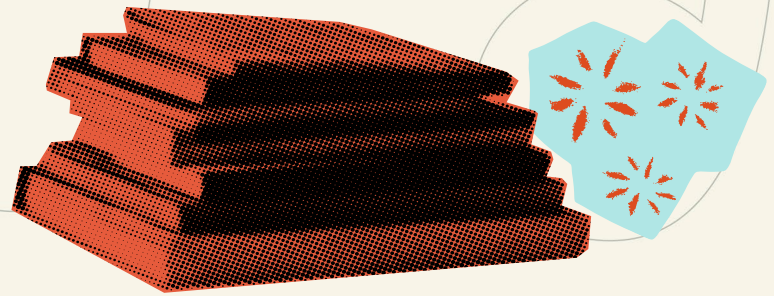
One Hit Wonders

Defaulting to Leave as the First/Only Accommodation Option

- Employers must engage in an individualized assessment and consider accommodations that would enable the employee to remain at work, before leave
- PWFA implications

Rigid Essential Function Descriptions that do not Reflect Actual Jobs

- If job duties are not correctly documented, employers may improperly deny reasonable accommodations or exclude qualified individuals based on non-essential tasks. Well-written job descriptions provide a fair representation of the job functions and conditions.
- Mark MLSNA vs. Union Pacific



Limiting Accommodations to Only "Physical" Disabilities

Denying Leave as an Accommodation Requests

- Time off can be a reasonable accommodation under the ADA when it enables recovery and RTW.
- Granting Leave as a Reasonable Accommodation EEOC Guide

One Hit Wonders



Undefined Intermittent Leave Reporting Procedures

- Employers should maintain a call-in policy that specifies when the employee should report any absence (e.g., "one hour before your shift"), to whom they should report the absence, and what the content of the call off should be.
- FMLA Insights – FMLA Call-in Policy and Dual Reporting

Forced Usage of Paid Sick Leave

- Many regulatory Paid Sick Leave laws prohibit required use
- Many PFML programs make supplementation of benefit optional to EEs
- Employees cannot be force to use paid time when on FMLA and accessing other paid benefit such as STD or PFML. FMLA2025-01-A

Only Offering a RTW Program for Occupational Injuries

- Offering return-to-work programs exclusively for occupational injuries can create legal risk because employees with non-occupational disabilities may be denied accommodations or transitional work opportunities that are available to similarly situated employees.
- This can lead to claims under the ADA that the employer failed to conduct an individualized assessment, engage in the interactive process, or provide reasonable accommodations. Limiting transitional duty programs to workers' compensation claims may also undermine an employer's ability to demonstrate consistent treatment of employees with comparable work restrictions.

One Hit Wonders

Only Recognizing Formal Written Accommodation Requests

- Employees may request an accommodation through a conversation, email, or other communication that indicates a medical condition is affecting their ability to work, and employers are responsible for recognizing and responding to those requests through the interactive process



One Bucket of Paid Time Off

- Limited ability to track and report
- May limit employer ability to curb leave abuse
- Cannot force use under many jurisdictions (if regulatory paid sick leave in play)

Blanket "No Remote Work" Policies

- Mosby-Meachem v. Memphis Light, Gas & Water Division
- Lawyer requested a short-term remote work accommodation while recovering from a high-risk pregnancy. The employer had policies favoring in-office work and argued that physical presence was necessary for collaboration and job performance. However, the court upheld the jury's verdict for the employee, finding that she successfully performed her essential duties remotely during the period and that in-person attendance was not strictly necessary in that circumstance.



LEAVE GREATEST HITS

The Classics That Still Top the Charts

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"Call Me Maybe"

The Same Old Song: Call-in Procedures and Why Consistency Matters



Key Consistencies to Maintain

- Apply the same attendance and call-in rules to FMLA and non-FMLA absences
- Use the same reporting channels (supervisor, call center, attendance line, etc.)
- Enforce standard notice requirements and call-in deadlines
- Require enough information to show potential FMLA-related absences
- Follow the same daily call-in expectations for approved leave

Consistent Policies Help Employers:

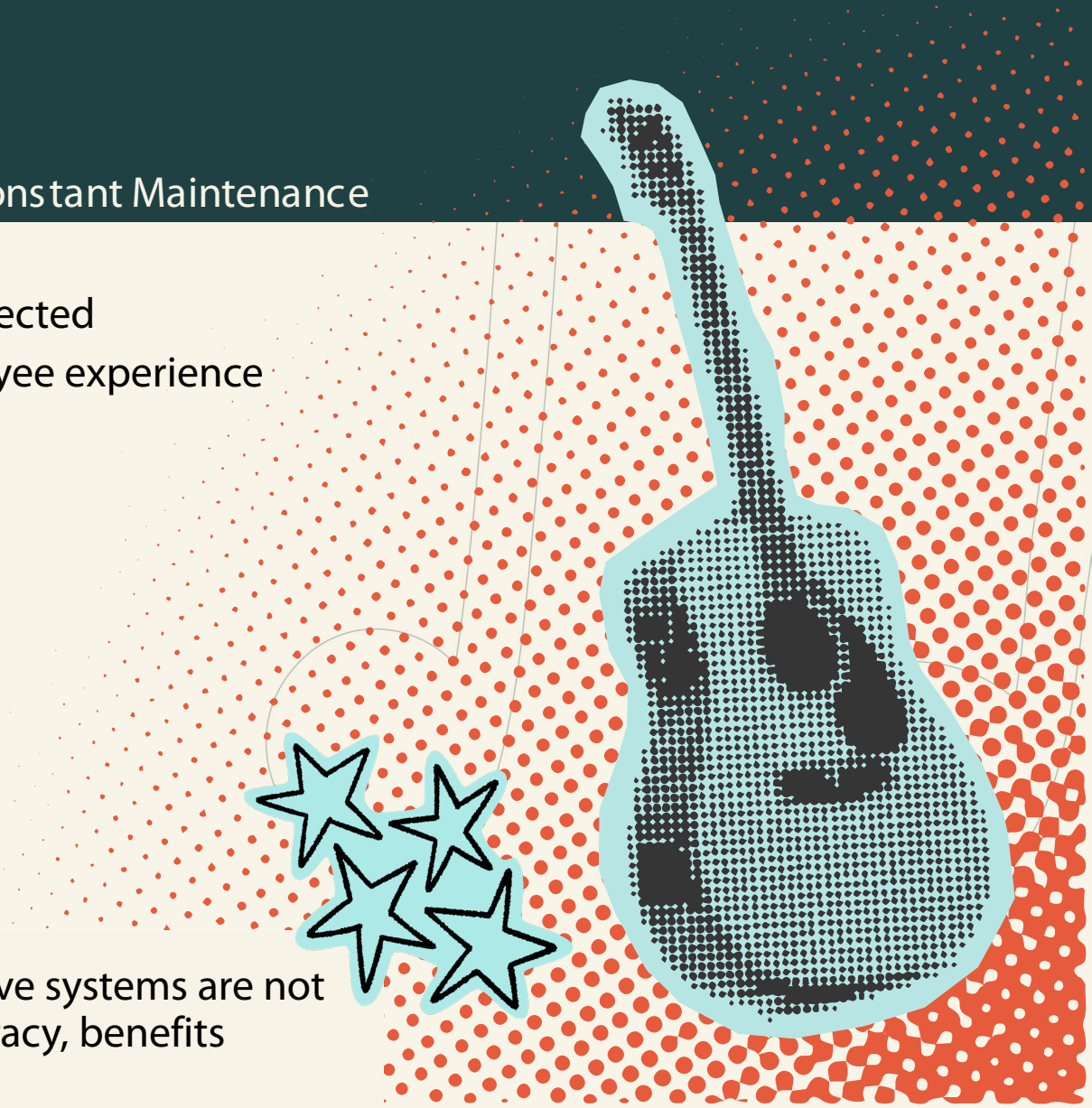
- Improve leave tracking and administration
- Reduce compliance risk
- Defend against interference and discrimination claims
- Ensure fair and equitable treatment of all team members

Why It Matters

The FMLA allows employers to enforce their usual and customary call-in procedures, provided they are applied consistently. Failure to follow established procedures may result in delayed or denied FMLA protection absent unusual circumstances.

"I Got You Babe"

Payroll & Leave Alignment: The Relationship That Requires Constant Maintenance



Why It Lasts

- Payroll and leave administration remain deeply interconnected
- Small errors can create significant compliance and employee experience issues

Common Pain Points

- FMLA hours tracking accuracy
- PTO substitution and leave coding alignment
- Intermittent leave time reporting
- Missed benefit deductions and premium collections
- Retroactive payroll corrections
- PFML and wage replacement coordination

Why It Matters

Even the best leave program can unravel when payroll and leave systems are not aligned. Accurate coordination protects compliance, pay accuracy, benefits administration, and team member trust.

"With a Little Help from my Friends"

Centralization: Better Together Than Apart

Why It Lasts

- Centralized programs drive consistency, compliance, and efficiency
- Team members receive a more predictable and equitable experience

Key Discussion Points

- Standardized processes across locations and business units
- Shared governance and accountability
- Consistent workflows and decision-making
- Reduced manager discretion and compliance risk
- Improved reporting and data visibility
- Stronger team member experience



Why It Matters

When leave and accommodation decisions are handled differently across departments, inconsistency and risk follow. Centralization creates a more compliant, scalable, and people-centered program.

"The Sound of Silence"

Employee Communication: Clear Communication Never Goes Out of Style

Why It Lasts

- Communication shapes the team member experience more than any policy
- Clear messaging reduces confusion, frustration, and compliance risk



Key Discussion Points

- Setting clear expectations from the start
- Using human-centered communication
- Avoiding legal and regulatory jargon overload
- Providing timely eligibility and designation notices
- Reducing uncertainty and anxiety throughout the leave process

Why It Matters

The most compliant leave program can still create a poor experience if communication is confusing. Clear, timely, and empathetic communication builds trust and helps team members successfully navigate the process.

"Here I Go Again"

Intermittent Leave: "The Remix That Never Ends"

Why It Lasts

- Intermittent leave remains one of the most complex areas of FMLA administration
- Balancing compliance and operational needs requires ongoing oversight

Key Discussion Points

- Managing frequency and duration expectations; identifying patterns and potential misuse
- Applying recertification rules effectively
- Navigating shift coverage and scheduling challenges
- Understanding operational impact
- Partnering with staffing, payroll, and leadership teams



Why It Matters

Intermittent leave is often where compliance and operations collide. Organizations that establish clear processes, monitor usage trends, and maintain consistent administration are better equipped to support team members while managing workforce demands.

ADA GREATEST HITS

The Hits That Keep the Interactive Process Playing





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"I Walk the Line"

The Interactive Process Isn't Optional



Walk the Line

•Engage promptly; Keep communicating; Assess individually;

- Document the process; Explore accommodations

Don't Miss the Cue

- Medical restrictions; FMLA exhaustion; return-to-work discussions; pregnancy-related limitatic
- Performance issues tied to a medical condition

Why It Matters

Taylor v. Phoenixville School District (3d Cir. 1999)

- An employee with a mental health disability requested assistance returning to work, but the employer failed to engage in a meaningful dialogue about possible accommodations. The court held that the ADA requires employers to participate in a good-faith interactive process to explore reasonable accommodations, making this case a foundational example of why communication- not just the final accommodation decision- is critical.

The goal isn't to have all the answers- it's to keep the conversation going.

"Signed. Sealed. Delivered"

If It Isn't Documented, It Didn't Happen



Why It Lasts

- Documentation is your strongest evidence during EEOC investigations, audits and litigation.
- It demonstrates that decisions were based on individualized assessment – not assumptions.

What Should Be Documented?

- Accommodation requests and employee discussions; interactive process conversations; accommodation options considered; undue hardship analysis (when applicable); return-to-work decisions and follow-up conversations

Case Spotlight

EEOC v. Kohl's Department Stores (1st Cir. 2014)

An employee requested a modified schedule due to diabetes. The employer initially discussed accommodations, but the interactive process broke down after the employee resigned. The court found the employer had made a good-faith effort to engage in the interactive process.

Takeaway: If the interactive process is your defense, documentation is your evidence.

"Stand By Your Man"

Leave as an Accommodation

Why It Lasts

- Leave continues to be one of the most frequently requested ADA accommodations.
- The ADA analysis doesn't end when FMLA ends.

Common Missteps

- Treating FMLA and ADA as the same process.
- Automatically denying leave extensions.
- Applying maximum leave policies without an individualized assessment.
- Requiring employees to be "100% healed" before returning to work.

Resource Spotlight

EEOC: Employer-Provided Leave and the ADA

✓ Explains when leave may be a reasonable accommodation.

✓ Clarifies employer obligations after FMLA is exhausted.

✓ Provides practical examples for evaluating additional leave requests.

Takeaway: FMLA may end—but the ADA conversation often continues.



"I Saw the Sign"

Managers Make or Break Compliance



- Managers are often the **first to see the signs** that an employee may need leave or an accommodation.
  - A medical restriction
  - A change in performance tied to a health condition
  - A request for time off
  - A return-to-work conversation

The Greatest Risk... Managers don't need to be ADA experts. **They do need to know when to raise their hand.**

Training Must Cover

- Recognizing FMLA and accommodation triggers
- Avoiding retaliation and interference
- Following escalation and referral protocols
- Understanding ADA/PWFA crossover issues
- Delivering consistent messaging to team members

Final Takeaway

The best leave and accommodation programs succeed because managers know when to recognize the sign and who to call next. Training matters!



Questions?

THANK YOU!



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