

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 05-2879

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Judy A. Moody,

Appellant,

v.

Colson Caster Corporation,

Appellee.

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\* Appeal from the United States  
\* District Court for the  
\* Eastern District of Arkansas.

\* [UNPUBLISHED]

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Submitted: February 13, 2006

Filed: March 31, 2006

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Before LOKEN, Chief Judge, BOWMAN and SMITH, Circuit Judges.

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PER CURIAM.

Judy Moody appeals from the decision of the District Court<sup>1</sup> granting summary judgment to Colson Castor Corporation and denying partial summary judgment to Moody on Moody's claim for relief under the Family and Medical Leave Act (FMLA).<sup>2</sup> Moody was discharged from her employment with Colson in January 2003

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<sup>1</sup>The Honorable J. Leon Holmes, United States District Judge for the Eastern District of Arkansas.

<sup>2</sup>Moody has not appealed the summary judgment granted to Colson on her claim under the Americans with Disabilities Act.

for excessive absenteeism. Moody contends that two of her absences qualified as FMLA leave. If those absences had been so treated, she would not have been terminated. The District Court determined from undisputed facts that Moody expressly declined FMLA leave for the first absence and that she did not give the required notice of the need for FMLA leave for the second absence. Upon de novo review, we see no genuine issue of material fact and agree that Colson is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56(c).

The judgment of the District Court is affirmed.

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