

**Case Name:** Urrutia v. BNSF Railway Co.  
**Date Decided:** October 22nd, 2010  
**Originally Filed in:** Washington (federal)  
**Decided by:** Washington Western District Court (Federal)  
**Court:** W.D.Wash.  
**Judge:** Martinez  
**Citation:** 2010 WL 4269246

**Background:**

Plaintiff, a railroad employee, brought this action, in part, against his employer, alleging that the defendant, BNSF Railway, violated the Family Medical Leave Act ("FMLA"), 29 U.S.C. Â§ 2601 *et seq.* Defendant filed a motion for summary judgment, asserting that the claim was barred by the statute of limitations. Specifically, the defendant alleged that the company action under dispute occurred more than three years ago when notice of the company's action was provided to the plaintiff. On the other side of the argument, the Plaintiff asserted that the statute of limitations only begins to run from the time of the company's final decision, regarding the matter in question, is issued. Plaintiff asserts that the statute of limitations does not begin to run from the date he is first notified of his employer's intent to act against him.

**Issue:**

Is this claim barred by the FMLA's statute of limitations? When does the statute of limitations begin to run in a FMLA claim?

**Overall Issues Discussed or Touched Upon in this Case:**

- *FMLA*

**Held:**

The court held that the Plaintiff's FMLA claim was barred by the statute of limitations. The statute of limitations on FMLA claims begins to run on the date of "the last event constituting the alleged violation for which the action is brought." 29 U.S.C. Â§ 2617(c)(1). To determine the timeliness of an adverse employment action, the statute of limitations must be measured from the time the plaintiff is notified of the alleged unlawful employment practice. The proper focus of the inquiry is on the date of occurrence of the unlawful act, not the moment at which the operative decision becomes irrevocable. The mere possibility that a decision maker might reverse a final decision does not delay the commencement of the running of the statute of limitations.

**Comments:**

The mere possibility that a decision maker might reverse a final decision does not delay the commencement of the running of the statute of limitations under the FELA.