

the best guidance as to the meaning of the term in the FMLA context).¹ Under that authority, individual liability requires that “a supervisor must either be involved in the day-to-day operation or have some direct responsibility for the supervision of the employee.” *Lamonica v. Safe Hurricane Shutters, Inc.*, 711 F.3d 1299, 1313 (11th Cir. 2013) (internal quotes omitted). Moreover, “while control [over day-to-day operations or over the plaintiff] need not be continuous, it must be both substantial and related to the company’s FL[M]A obligations.” *Id.* at 1314. This is because “our primary concern is the supervisor’s role in causing the FL[M]A violation.” *Id.*

The plaintiff points out several allegations of the complaint indicating that, as branch manager, Lacy was substantially involved in day-to-day operations and had substantial control over the plaintiff and that, in this capacity and through this involvement and control, Lacy played a prominent role in causing the alleged FMLA violations. Lacy’s failure to file a detailed principal brief, and her failure to file a reply brief at all, leaves the plaintiff’s facially reasonable defense of her pleading unchallenged.²

For the reasons set forth above, Lacy’s motion to dismiss is **denied**.

DONE and ORDERED this 17th day of September, 2015.

s/ WILLIAM H. STEELE
CHIEF UNITED STATES DISTRICT JUDGE

¹ “The fact that Congress, in drafting the FMLA, chose to make the definition of ‘employer’ materially identical to that in the FLSA means that decisions interpreting the FLSA offer the best guidance for construing the term ‘employer’ as it is used in the FMLA.” *Wascura v. Carver*, 169 F.3d 683, 686 (11th Cir. 1999). *Wascura* is the only Eleventh Circuit authority cited by Lacy on the “employer” question.

² Lacy correctly asserts that the complaint contains no allegations suggesting she had authority to determine the plaintiff’s pay scale or control the bank’s payroll, but such matters are irrelevant to an FMLA (as opposed to an FLSA) inquiry. Her assertion that the complaint contains no allegations suggesting she had authority over the branch’s day-to-day operations and/or authority to fire the plaintiff (or at least recommend her termination), is simply incorrect.