

Pregnant Women Protected by Law

Q:

I work in sales and my supervisor did not take the news that I was pregnant very well. In fact, he was a jerk, commenting on how my career was ruined and how the business would suffer as a result. He did let me take maternity leave, but I'm nervous about returning to work. How can I know if, or when, my supervisor's conduct crosses the line and becomes pregnancy discrimination

?

A:

Employers must balance their treatment of employees temporarily affected by pregnancy or childbirth with their treatment of other temporarily disabled employees. This, like parenting, is an art. Unfortunately, it is one employers frequently fall far short of mastering.

Pregnancy discrimination

frequently occurs in the financial activities and leisure and hospitality sectors. These two sectors accounted for nearly 62,000, or 18 percent, of the Capital Region's private sector work force as of July, according to New York State Department of Labor statistics.

Therefore, it is not surprising that pregnancy discrimination

lawsuits are common in the area.

You should be on the lookout for signs of pregnancy discrimination

given your supervisor's negative pre-maternity leave comments. Disparaging sex-based comments could create a hostile work environment in violation of Title VII of the Civil Rights Act of 1964.

As the U.S. 2nd Circuit Court of Appeals said in its 2001 ruling in *Gregory v. Daly*, for a work environment to be hostile, the hostility must be "objectively severe or pervasive." A "reasonable person" would also have to be able to find someone's conduct "hostile or abusive" because of a plaintiff's sex.

The Pregnancy Discrimination Act of 1978, which amended Title VII, prohibits employers from discrimination based on pregnancy, childbirth or related medical conditions. This law also requires employers to treat women affected by pregnancy, childbirth or related medical conditions the same way they treat other similarly ability-impaired employees "for all employment-related purposes," including health care coverage, leave and promotion.

Additionally, under the Family Medical Leave Act, your employer must grant you "reasonable break time" to pump breast milk for a newborn up to 1 year old. According to Equal Employment Opportunity Commission

guidance, mothers should be allowed to express breast milk as frequently as needed in a

bathroom or other designated space.

These protections, however, do not give mothers or fathers the right to fall behind on their work duties because of their care-giving responsibilities to a newborn. The U.S. District Court for the Southern District of New York drove this point home last August when it dismissed a pregnancy discrimination

class action lawsuit brought by the EEOC

against Bloomberg L.P. The court said, “[t]he law does not mandate ‘work-life balance’... it does not require that companies treat pregnant women and mothers better or more leniently than others. ... The law simply requires fair treatment for all employees.”

It is the employee’s responsibility to strike a work-family balance. If their employer attempts to tip the scale by discriminating against them, then they should contact an employment law attorney.

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