



HR Heads-up

EEOC Files Its First Pregnant Workers Fairness Act Lawsuit

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The Pregnant Workers Fairness Act (PWFA) is a fairly new federal law which was enacted in 2023. The law requires employers to accommodate employees with a pregnancy-related health limitation. Unless there is undue hardship, employers must provide reasonable accommodations to an employee's (or applicant's) known limitation related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions.

While the law went into effect in June 2023, and EEOC regulations went into effect in June 2024, this is the first lawsuit the EEOC has filed to enforce provisions of the law.

Facts (as alleged in the lawsuit)

Wabash National Corporation is a Kentucky-based manufacturer of semi-trailers and other commercial trucking equipment. The employee was a front plate assembler – a job that required her to bend over the tops of trailers. The employee, who was seven months pregnant, told the Company's Human Resources representatives that her pregnant stomach made bending over trailers painful. She believed the discomfort and constant pressure on her stomach might jeopardize her otherwise healthy pregnancy. She asked to be moved from the front plate assembler position to another assembly line position, for which she was trained, for the rest of her pregnancy or to have her limitation accommodated in some other way.

The Company allegedly denied her request to transfer and told her she could take unpaid leave or return to her position without any modifications. The Company allegedly provided similar changes for non-pregnant workers. The Company did not allow her a light duty assignment despite the fact it used light duty roles to

accommodate disability and workplace-related injuries, and despite the fact the employee apparently had the ability to perform most light duty positions.

According to the lawsuit, the Company refused to consider the employee's request to switch positions with a co-worker in a different part of the assembly line, despite the availability of co-workers willing to switch positions with her, and her ability to perform these other assembly duties. Because the Company would not make an accommodation for her, the employee claims she resigned.

The lawsuit also claims the Company sent the employee Americans With Disabilities Act (ADA) paperwork to have her doctor fill out. However, pregnancy is not legally a disability under the ADA, and the paperwork was returned to the Company noting that fact. The lawsuit alleges the request from the Company to the doctor to have ADA paperwork filled out constituted an alleged impermissible medical inquiry under the PWFA. The EEOC General Counsel said: "If you're having morning sickness or you need to use the bathroom more often because you're pregnant, that's a pretty common sense thing and I think pregnancy is well understood and it may not be reasonable to seek medical documentation for some of these things."

A Company spokesperson has stated that the Company has always been committed to taking care of pregnant employees and complying with the law and that it will respond to the EEOC's lawsuit in due course.

Take-Aways For Employers

- If you are not familiar with the PWFA you should become so. For more information, view [The Latest in Accommodating Disabilities](#) or the [EEOC website](#). This case has not been decided yet, but it is a reminder that the EEOC is enforcing the law, and violations can be potentially costly.
- PWFA claims are not quite like ADA claims. While some of the terminology in the two laws is the same, the PWFA addresses limitations related to pregnancy, childbirth, or related medical conditions, which may not rise to the level of a disability under the ADA.
- Employers should be careful about what kinds of information they ask for from employees. You have more latitude under the ADA than the PWFA.
- The EEOC has stated protecting pregnancy workers is a "strategic enforcement priority" for the EEOC. While up to this point, the EEOC has primarily been engaged in education and outreach, the EEOC Chair has said it will use enforcement to ensure that workers are aware of their rights and that employers meet their responsibilities under this new law.

If you have any questions about the Pregnancy Workers Fairness Act, please reach out to one of the members of the Boardman Clark [Labor and Employment Law Team](#).

Disclaimer: This information is not intended to be legal advice. Rather, it seeks to make recipients aware of certain legal developments that affect human resource issues. Recipients who want legal advice concerning a particular matter should consult with an attorney who is given a full understanding of the relevant facts pertaining to the particular matter.

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