

PREGNANCY DISCRIMINATION IN THE WORKPLACE

The federal law outlawing pregnancy discrimination in the workplace turned 30 last October. The Pregnancy Discrimination Act (PDA) was a true milestone for women's equality. But we have miles to go to fulfill its promise of workplace equality.

The PDA opened doors for millions of women. No longer could a woman be fired simply for being pregnant, or be excluded from coverage of pregnancy-related health care under an employer's insurance plan. Indeed, a recent study found that close to 70 percent of women having their first child between 2001 and 2003 worked during their pregnancies, and nearly 80 percent of those women worked into their ninth month. Other statistics are more sobering. Pregnancy discrimination charges filed with the U.S. Equal Employment Opportunity Commission (EEOC) increased 40 percent between 1997 and 2007. A recent study found that pregnancy discrimination claims by women of color increased more than 75 percent in the past decade, even though the total number of charges increased by only 25 percent.

Legal Momentum is working to establish new legal and policy norms that recognize pregnancy and childbirth—and ultimately, motherhood—as normal parts of women workers' lives, not handicaps for them to cope with on their own.

Legal Momentum is especially concerned with the experiences of pregnant women who do physically strenuous work—in jobs as diverse as nurse, janitor, trucker, and construction worker. Millions of these women too often confront employer stereotypes about limitations during pregnancy. Far too many ultimately face an unconscionable choice between their pregnancies and their paychecks.

Lori DiPalo is a bridge and tunnel officer with the MTA's Triborough Bridge and Tunnel Authority (TBTA) in New York City. When the TBTA learned she was pregnant last summer, it immediately removed her from full duty and took her gun away. Although DiPalo's own doctor found her job duties no threat to her pregnancy, the TBTA deferred. It relegated DiPalo to a low-level toll booth position. The TBTA removes all pregnant women from active duty, regardless of the advice of their physicians. Legal Momentum now represents DiPalo in a pregnancy discrimination case against the TBTA, pending before the EEOC.

Michigan firefighter Valerie Finn learned she was pregnant in early 2008. She knew she couldn't perform the physically strenuous and hazardous aspects of her job for much longer, and that her department did not have a policy of providing light duty to pregnant women. This meant that unless she kept working at full duty, she would have to take an unpaid leave of absence—and she and her husband couldn't afford to lose half their household income. Finn did what she'd previously considered unthinkable: She hid her pregnancy and continued to work at full capacity. When she did disclose her pregnancy, at five months, the fire chief immediately placed her on unpaid leave. She lost her medical benefits and seniority and used up her paid sick leave and vacation time. Legal Momentum, along with Detroit's Sugar Law Center, now represents Finn in a discrimination case against the Port Huron Fire Department and the City of Port Huron.

Angie is a longtime employee of a major domestic airlines' male-dominated Cargo Division at New York's JFK International Airport. Just weeks into her pregnancy, her doctor told her she'd have to avoid heavy lifting. But the airline said light duty is reserved for those injured at work. She could continue lifting heavy packages or take unpaid leave for approximately seven months. By the time Angie recovered from a complicated delivery and returned to work in the summer of 2007, she had been without a paycheck for more than a year. Legal Momentum joined with New York City attorney Deborah Karpatkin in representing Angie. Her case is pending before the EEOC.

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For more information about Legal Momentum's work on employment discrimination issues, visit www.legalmomentum.org/pda.