

Pregnant working women will get their day in Florida court

Pregnant working women in Florida who are discriminated against by their employers may sue for relief under the Florida Civil Rights Act, an appellate court ruled last week.

Florida's Fourth District Court of Appeals issued its opinion in the case of Amy Carsillo v. City of Lake Worth where Amy Carsillo, who was employed in the City of Lake Worth's fire department, became pregnant and was ordered to take a light-duty job outside of her department. Other employees with non-pregnancy related health issues were permitted to work light-duty assignments in the same department.

Ms. Carsillo filed suit against the city in state court in Palm Beach County alleging pregnancy discrimination under the Florida Civil Rights Act, which expressly prohibits sex discrimination but does not mention the word pregnancy.

The city argued that under the FCRA, pregnancy discrimination is not a form of sex discrimination and, therefore, even if Ms. Carsillo's factual allegations were true, she could not sue under state law. Instead, the city argued, Ms. Carsillo could only sue in federal court under the federal statute known as Title VII of the Civil Rights Act of 1964 as amended by the Pregnancy Discrimination Act of 1978. The city asserted that because the Florida legislature did not follow Congress by adopting its own "mini-PDA" for the FCRA, then Ms. Carsillo could not sue in

state court where a jury award of emotional distress damages would not be capped as it would in federal court.

The Palm Beach County court agreed with the employer's position and Ms. Carsillo appealed to the Fourth District Court of Appeals in West Palm Beach seeking a reversal of that decision.

On appeal, the appellate court rejected the city's argument, reversed the trial court, and held that a pregnant working woman who has been discriminated against by her employer may bring a claim in state court under Florida's FCRA. Attorney Travis Hollifield of the Florida Chapter of the National Employment Lawyers Association participated in the appeal by filing an amicus curiae (friend of the court) brief on behalf of Ms. Carsillo.

"This is an extremely important legal victory for working women throughout Florida. It is now very clear that women who face unequal treatment in the workplace because of their pregnancies may challenge their employer's actions in state court and are not stuck seeking the very limited relief available in federal court," Mr. Hollifield said.

Because of the ruling, Ms. Carsillo will have her day in state court in front of a jury of her peers, which opens the door for thousands of other working women to enjoy the same right in Florida from now on. ■

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