A NEW LOOK AT GENDER DISCRIMINATION

By: Bettina B. Plevan*
Daniel L. Saperstein**

Proskauer Rose LLP

*** Partner, New York office of Proskauer Rose LLP**
Labor and Employment Law Department

**** Associate, Newark office of Proskauer Rose LLP**
Labor and Employment Law Department

I. RECENT DEVELOPMENTS IN SEXUAL HARASSMENT

A. RISING SEXUAL HARASSMENT CLAIMS AND MONETARY BENEFITS

Sexual harassment complaints have increased over the last decade. In FY 1997, the total number of charge receipts filed was 24,728. By FY 2009 there were 28,028 charge receipts filed, the second highest of the decade behind the 28,372 charge receipts filed in FY 2008. In addition, monetary benefits from sex-based EEOC charges in 2009 were the highest of the decade ($121.5 million). For a breakdown of the data, see U.S. Equal Employment Opportunity Commission, Sex-Based Charges FY 1997 – FY 2009, http://www1.eeoc.gov//eeoc/statistics/enforcement/sex.cfm.

B. TRENDS IN SEXUAL HARASSMENT: REJECTING RETALIATION CLAIMS

In *Brannum v. Missouri Dep't of Corr.*, No. 07-1598, 102 FEP Cases 1393 (8th Cir. Mar. 3, 2008) the plaintiff, Lola Ann Brannum, appealed the grant of summary judgment favoring the defendant, the Missouri Department of Corrections ("MDOC"). Brannum had argued that her suspension was in retaliation for her assisting a male coworker in reporting sexual harassment by a female manager. The Eight Circuit found that Brannum did not engage in protected activity under Title VII of the Civil Rights Act of 1964 ("Title VII") when objecting to an isolated comment that women were more nurturing than men and better at managing special needs inmates.

In *Tate v. Executive Mgmt. Servs.*, No. 07-2575, 104 FEP Cases 737 (7th Cir. Oct. 10, 2008), the plaintiff, Alshafi Tate, a former employee of Executive Management Services ("EMS"), alleged that her supervisor, Dawn Burban, threatened to terminate her employment if she did not continue their sexual relationship. The Seventh Circuit noted a federal circuit split on whether rejecting a supervisor's sexual advances constitutes protected activity under Title VII. The court, even assuming *arguendo* such protection

exists, ruled that nothing in the record indicated that Tate believed Burban's actions violated the law.

C. TRENDS IN SEXUAL HARASSMENT: HOLDING EMPLOYERS LIABLE

1. Sexual Harassment and Constructive Notice

In *Duch v. Jakubek*, No. 07-3503-cv, 107 FEP Cases 1576 (2d Cir. Dec. 4. 2009), the plaintiff, Karen Duch, a former court officer and employee of the New York State Office of Court Administration, alleged sexual harassment in violation of Title VII. The Second Circuit agreed with the district court that liability was not imputed to the employer for failing to provide the plaintiff with a reasonable avenue of complaint or for the EEO liaison knowing about the harassment but failing to act. The Second Circuit, however, reversed the lower court by holding that an employer can be held liable for a supervisor's constructive notice of the defendant's past sexual misconduct or plaintiff's emotional reaction to working with the defendant.

2. Sexual Harassment and Successor Liability

In *EEOC v. Nichols Gas & Oil Inc*., No. 05-CV-6482, 108 FEP Cases 522, (W.D.N.Y. Jan. 13, 2010), the plaintiff, Elisa Foss, sued her former employer, Nicholas Gas & Oil ("Nichols"), for sexual harassment. Following commencement of the action, Nichols entered into a "Purchase Agreement" with Townsend Oil Corporation d/b/a/ Townsend Oil & Propane ("Townsend"). The U.S. District Court for the Western District of New York rejected the rule at common law that a corporation is not liable for torts of the predecessor corporation. Rather, it applied the "substantial continuity" test to impose successor liability on Townsend. The court limited relief, however, to compensatory damages.

D. SPOTLIGHTING NEW YORK CITY: BROADER PROTECTION UNDER NYC LAW

Within the last two years, New York courts have broadened the protections of the New York City Human Rights Law ("NYCHRL") in sexual harassment cases.

In *Williams v. New York City Housing Auth.*, 872 NYS2d 27 (1st Dept. 2009), the plaintiff, an employee of the defendant New York City Housing Authority, sued for a hostile work environment, disparate treatment based on sex, and retaliation. The court entertained the issue of whether NYCHRL sexual harassment cases should be decided under the same framework applied to federal law. The court held that the U.S. Supreme Court's "severe and pervasive" standard was not applicable to cases arising under the broadly protective NYCHRL. The court reasoned that the higher threshold under federal law to prove sexual harassment limits the incentive for employers to have a zero tolerance policy toward such misconduct.

In *Zakrzewska v. The New Sch.*, 598 F. Supp. 2d 426 (S.D.N.Y. 2009), the plaintiff, an employee of The New School, alleged sexual harassment and retaliation under the NYCHRL. Before the U.S. District Court for the Southern District of New York was the question of whether employers are entitled under the NYCHRL to the *Faragher Ellerth* affirmative defense of federal sexual harassment law. The court ruled against the employers, arguing that the defense is inconsistent with the plain text of section 8-107 of the New York City Administrative Code.

On July 27, 2009 the United States Court of Appeals for the Second Circuit certified the following question to the New York Court of Appeals: "does the affirmative defense to employer liability articulated in *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), and *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998), apply to sexual harassment and retaliation claims under section 8-107 of the New York City Administrative Code?" *See Zakrzewska v. The New Sch..*, No. 09-0611-cv (2d Cir. July 27, 2009). The matter is still pending.

E. "ACTS" OF SEXUAL HARASSMENT

1. Sexual Harassment and Timeliness of Claim

In *Turner v. The Saloon Ltd.*, No. 07-2449, 108 FEP Cases 673 (7th Cir. Feb. 8, 2010), the plaintiff, Paul Turner, a waiter at The Saloon, Ltd., alleged many forms of employment discrimination, including sexual harassment. Turner identified at least five instances of explicit sexual harassment, even though only one incident occurred within the statute of limitations. The Seventh Circuit found that the plaintiff's timely filing of her EEOC charge allows a court to consider time-barred acts of sexual harassment when making its determination.

2. Past Acts, Co-Worker Reprisals

In *Hawkins v. Anheuser-Busch*, No. 07-3235, 102 FEP Cases 1165 (6th Cir. Feb. 19, 2008), four female employees of Anheuser-Busch, Inc. alleged sexual harassment under Title VII. The U.S. Court of Appeals for the Sixth Circuit held that a court can consider a defendant's past acts of sexual harassment, even if not directed at the plaintiff. The Sixth Circuit also ruled that a court may consider co-worker reprisals when determining the liability of the employer.

3. Severe or Pervasive Acts

In *Hensman v. City of Riverview*, No. 08-1454, 105 FEP Cases 1332 (6th Cir. Mar. 10, 2009), the plaintiff, Dorothy Hensman, filed suit against the City of Riverview for sexual harassment and hostile work environment under Title VII. She alleged her supervisor did the following: (1) hugged her three times, (2) twice commented that she voluptuous, (3) said he was distracted by her beauty, (4) walked too closely behind her, (5) closed door when they met in his office, (6) told her she looked cute in her pajamas, (7) bought her flowers and bagels, (8) complimented her perfume, (9) called her by the wrong name, and (10) and grabbed her arm once. *Id.* at 1335. The U.S. Court of Appeals for the Sixth Circuit held that the above described allegations were not sufficiently "severe or pervasive" to constitute sexual harassment.

F. ARBITRATION

Sexual Harassment and Arbitration

In *Ragone v. Atlantic Video*, No. 08-4666-cv, 108 FEP Cases 781 (2d Cir. Feb. 17, 2010), the Second Circuit entertains whether compelling an employee to arbitrate her sexual harassment claim is lawful. The plaintiff argued that such an agreement was unconscionable. The Second Circuit, however, approved arbitration for a sexual harassment claim "with less than robust enthusiasm." *Id.* at. 778.

II. RECENT DEVELOPMENTS IN FMLA AND CAREGIVER ISSUES

A. A NEW FORM OF EMPLOYMENT DISCRIMINATION?

The percentage of women with children in today's workforce or returning from maternity leave continues to rise, as well as the number of men assuming parenting responsibilities. As a result, caregiver discrimination has become a budding focus of employment law today. Caregiving is not limited to parents tending to their children, but can include caring for spouses, in-laws, and elderly parents.

There is no federal law that explicitly prohibits caregiver discrimination. However, caregiver discrimination claims may implicate Title VII of the Civil Rights Act of 1964, the Ledbetter Fair Pay Act, and the Family and Medical Leave Act ("FMLA"). Under the FMLA, employee caregivers may raise claims for both interference with FMLA rights and retaliation for exercising those rights.

Federal court cases, along with recent EEOC guidance, portend a continued evolution and potential expansion of the law. The Obama administration's intentions and the consequences of the

Lilly Ledbetter Fair Pay Act of 2009 may also impact developments in the future.

B. RECENT CASE LAW

In *Infante v. Ambac Fin. Group*, No. 06-0576-cv (2d Cir. Dec. 14, 2007), the plaintiff, Maria Infante, took maternity leave from her job at Ambac Financial Group ("Ambac"). She extended her leave five times for health complications under the firm's short-term disability plan. Upon her medical clearance, Ambac refused to reinstate her. Infante's leave had exceeded the twelve-week job protection guaranteed by the FMLA, while the firm's short-term disability plan did not have such a protection. Therefore, Ambac was under no legal obligation to preserve Infante's position at the firm. In a summary order, the Second Circuit affirmed the district court's summary judgment, finding that Ambac had a legitimate business reason for replacing Infante.

In *Xin Liu v. Amway Corp.*, 347 F.3d 1125 (9th Cir. 2003), the plaintiff, on maternity leave, was subject to repeated attempts by her supervisor to shorten her leave time under the FMLA. At first, the supervisor had refused to allow her an extension of leave time, despite her lawful entitlement. Even though the supervisor eventually approved of her leave, the supervisor modified her status from "pregnancy leave" to "personal leave" and gave her negative performance reviews. The plaintiff was later terminated. The Ninth Circuit held that the plaintiff's supervisor unlawfully interfered with her FMLA rights.

In *Drew v. Plaza Construction Corp. et al.*, No. 09 Civ. 2129, 2010 U.S. Dist. LEXIS 8699 (S.D.N.Y. Jan. 28, 2010), the plaintiff, a system support technician, requested of her supervisor to leave work early to assist his father battling leukemia. The supervisor reluctantly granted the plaintiff's request. When a few days later the plaintiff asked for FMLA leave to assist his father, his supervisor terminated him. In denying the defendant's motion to dismiss, the U.S. District Court for the Southern District of New

York held that the plaintiff had asserted facts adequate to prove retaliation for exercising FMLA rights.

In *Sura v. Stearns Bank*, 2002 WL 31898167 (D. Minn. 2002), the plaintiff, a business production coordinator at a bank, learned two days after her return from maternity leave of a reduction in her salary. Although the bank alleged that the reduction was for legitimate economic difficulties, the Court held that it was mere pretext.

C. EEOC GUIDELINES

EEOC Acting Chair Stuart Ishimaru has stated that caregiver discrimination is a top priority of the new administration. Even though the EEOC's 2007 Guidance on "Unlawful Disparate Treatment of Workers with Caregiving Responsibilities" does not establish new protected categories or substantive rights for employee caregivers, it is a clear indication of the EEOC's enforcement intentions.

The EEOC recommended that employers adhere to the following practices to prevent caregiver discrimination:

- Develop, disseminate, and enforce a strong EEO policy that clearly addresses the types of conduct that might constitute unlawful discrimination against caregivers.
- Identify an office or person that staff may contact if they have questions or need to file a complaint related to caregiver discrimination.
- Ensure that managers and supervisors (particularly those who regularly interact with employees or who are responsible for assignments, leave approval, schedules, promotions, etc) are aware of, and comply with, the organization's work-life policies.
- Provide clear and credible assurances that if employees make complaints or provide information related to complaints about unfair treatment of caregivers, the employer will protect them from retaliation.

- Do not ask questions about an applicant's or employee's children, plans to start a family, pregnancy, or other caregiving-related issues during interviews or performance reviews.
- Review employment policies and practices (including compensation practices, mandatory overtime policies, and performance appraisal systems) to determine whether they disadvantage workers with caregiving responsibilities.
- Ensure that job openings and promotions are communicated to all eligible employees regardless of caregiving responsibilities. Do not assume that certain employees will not be interested in positions that require significant travel or working long or unusual hours.
- Implement flexible work arrangements, including flextime and flexible week programs (which permit employees to vary their work hours or work days); telecommuting, work-at-home, or flexplace programs (which enable employees to work from home or alternate office locations), and reduced-time options.
- Establish leave donation banks that enable employees to voluntarily contribute their leave to co-workers.
- Post employee schedules as early as possible for positions that have changing work schedules so that employees can arrange in advance for child care or address other personal responsibilities.
- Ensure that employees are given equal opportunity to participate on complex or high-profile work assignments that will enhance their skills and experience and help them ascend to upper-level positions.
- Provide support, resource, and/or referral services that offer caregiver-related information to employees. Such services may include referral services for local child care centers or assisted living facilities, adoption assistance services, parenting education classes, college financing classes, or a toll-free caregiver hotline that provides guidance and advice to employees who have work-life balance questions or concerns.

III. RECENT DEVELOPMENTS IN PREGNANCY DISCRIMINATION

A. EXPANDING THE COVERAGE OF THE PREGNANCY DISCRIMINATION ACT (PDA)

In 1978, the PDA amended Title VII to clarify that employment discrimination based on a woman's pregnancy is discrimination because of her gender. In the last thirty years, medical advances have redefined pregnancies and, as a result, sparked new issues for courts to address on discrimination. In the last two years federal circuit and district courts have broadened the coverage of discrimination under the PDA to include infertility treatment and abortion. In addition, the 2008 amendments to the Americans with Disabilities Act ("ADA") have renewed the question of whether a pregnancy should qualify as a disability.

1. PDA and Infertility Treatment

In *Hall v. Nalco Co.*, No. 06-3684, 103 FEP Cases 1345 (7th Cir. July 17, 2008), the Seventh Circuit determined that the PDA applies to women who undergo infertility treatments. The defendant, Nalco Company, terminated the plaintiff, Cheryl Hall, for her absence from work to undergo in vitro fertilization (IVF). Hall alleged that her discharge was "because of or on the basis of pregnancy, childbirth, or related medical conditions." 42 U.S.C. §2000e(k). In reversing the decision of the district court, the Seventh Circuit disagreed that "infertility is a gender-neutral condition entitled to no protection under the language of the PDA. *Id.* at 1347. Rather, it found that an adverse employment action based on child-bearing capacity would constitute discrimination based on sex.

In *EEOC v. Menard Inc.*, No. 08-0655-DRH, 108 FEP Cases 624 (S.D. Ill. Jan. 25, 2010), the District Court for the Southern District of Illinois followed the jurisprudential direction of the Seventh

Circuit. The defendant, Menard Incorporated, demoted the plaintiff, Brenda Coe, a female department manager undergoing in-vitro fertilization (IVF). From her demotion, Coe's pay dropped from $11.40 per hour to $9.75 per hour, and she lost cost of living and merit raises. Menard asserted that the adverse employment action resulted from Coe's poor performance. The court agreed with Coe, who survived summary judgment. The court found that the plaintiff had established a prima facie case of sex discrimination under the PDA.

2. PDA and Abortion

In *Doe v. C.A.R.S. Protection. Plus, Inc.*, 527 F.3d 358, 371, 103 FEP Cases 577 (3d Cir. 2008), the Third Circuit Court of Appeals held that the PDA protects against pregnancy discrimination for women undergoing abortion. The plaintiff, Jane Doe, sued her former employer, C.A.R.S. Protection Plus, Inc. (CARS), for her discharge following the funeral of her aborted fetus. The Third Circuit held that the term "related medical conditions" under the PDA includes an abortion. *Id.* at 579. The court also held that Doe had raised an inference of discrimination against CARS because her supervisor treated her dissimilarly from her colleagues and uttered insensitive remarks concerning her abortion. The court concluded that Doe established a prima facie case of discrimination under the PDA.

3. Pregnancy and the ADA

The body of case law holding that pregnancy is not a disability under the ADA, was affirmed recently in *Dantuono v. Davis Vision Inc*, No. 07-CV-2234, 22 AD Cases 1519 (E.D.N.Y. Dec. 29, 2009).

The passage of the ADA Amendments Act of 2008 may allow pregnant employees alleging discrimination to argue that they were "regarded as" disabled by employers taking adverse action against them. The Equal Employment Opportunity Commission (EEOC) has indicated its desire to advance this approach. It recently

initiated a lawsuit against D.R. Horton, one of the largest home builders in the United States, suing for pregnancy discrimination under the ADA, as amended. The EEOC alleges that D.R. Horton refused to accommodate a female project manager, denying her additional unpaid leave time after taking seven months bed rest for severe pregnancy complications. The case is currently before the U.S. District Court for the Western District of Washington. *See EEOC v. SSHI LLC*, No**.** 2:09CV01383 (W.D. Wash. filed Sept. 30, 2009).

B. RESULTS: RISING PREGNANCY DISCRIMINATION CLAIMS

Pregnancy discrimination complaints have increased over the last decade. In FY 1997, the total number of charge receipts filed was 3,977. A steady increase each year has resulted in 6,196 pregnancy discrimination charges filed in FY 2009, the second highest of the decade behind the 6,285 charges receipts filed in FY 2008. For a breakdown of the data, see U.S. Equal Employment Opportunity Commission, Pregnancy Discrimination Charges EEOC & FEPAs Combined: FY 1997 – FY 2009, http://www1.eeoc.gov//eeoc/statistics/enforcement/pregnancy.cfm.

A study conducted by the Women's Legal Defense Fund also reveals that pregnancy discrimination charges filed by racial minorities such as African and Hispanic Americans have ballooned in the last decade, while those initiated by white women have decreased in the same period. *See* Conference Examines Pregnancy Bias as Federal Law Marks 30th Anniversary, http://laborandemploymentlaw.bna.com.

C. RECENT U.S. SUPREME COURT JURISPRUDENCE

1. The Pregnancy Discrimination Act Is Not Retroactive

In *AT&T Corp. v. Hulteen*, 129 S.Ct. 1962, 106 FEP Cases 289 (2009), the U.S. Supreme Court held that an employer did not violate Title VII by limiting pension benefits for women who had

taken pregnancy leave pre-PDA. In the 1960s and early-to-mid 1970s, the American Telephone & Telegraph Company (AT&T), employees received pensions and other benefits under a seniority system, which distinguished between "disability" and "personal" leaves. Under this system, pregnancy was "personal" leave. Following the effective date of the PDA on April 29, 1979, AT&T instituted its Anticipated Disability Plan, which reclassified pregnancy discrimination under the same rubric as other temporary disabilities.

The respondents in this case allege violation of Title VII for receiving less service credit for pregnancy leave than that extended to other disabilities under the pre-PDA seniority system. The Court concluded, however, that the U.S. Congress did not have retroactive application in mind with the passage of the PDA. *Id.* at 293. Rather, the Court reasoned that the employer acted properly in accordance with a bona fide seniority system.

D. SPOTLIGHTING RECENT NEW YORK CASE LAW: FROM DISCRIMINATION TO TERMINATION

In the last two years, New York federal courts have addressed a number of issues relating to pregnancy discrimination. The following cases may not reveal themes or trends in pregnancy discrimination law, but nonetheless provide insight into new factual and legal issues.

1. Pregnancy and Disparate Impact

In *Lochren v. Suffolk County*, 2008 WL 203958 (E.D.N.Y. May 9, 2008), six female police officers initiated a pregnancy discrimination lawsuit under Title VII against the County of Suffolk, New York for the Suffolk County Policy Department's policy of only assigning light-duty tasks to officers suffering from occupational injuries. A jury in the Eastern District of New York found that the Police Department's policy had a disparate impact on pregnant women. The Police Department entered into a consent

agreement with the plaintiffs acknowledging the effect of the policy.

In *Germain v. County of Suffolk*, No. 07-CV-2523, 108 FEP Cases 208 (E.D.N.Y. May 29, 2009), the Plaintiff, Tara Germain, sued the Suffolk County Park's Department for denying her request for a light-duty assignment on account of her pregnancy. The court concluded that the distinction between workplace and non-workplace injury adversely affected pregnant officers. The court denied summary judgment, holding that the plaintiff established a prima facie case for disparate impact.

2. Pregnancy and Disparate Treatment

In *Kucharski v. CORT Furniture Rental*, No. 08-4037-cv, 107 FEP Cases 464 (2d Cir. 2009), the Second Circuit held that the defendant employer had a legitimate reason for discharging a pregnant woman who had not returned to work following four weeks paid medical leave provided by the employer's policy.

In *Germain v. County of Suffolk*, No. 07-CV-2523, 108 FEP Cases 208 (E.D.N.Y. May 29, 2009), the plaintiff also argued that the Park Department's light-duty policy was intentional discrimination directed against pregnant officers. The plaintiff's claim survived summary judgment. The court determined that Suffolk County's failure to change the Park Department's light assignment policy in the wake of *Lochren* may indicate animus toward pregnant women.

3. Pregnancy and Hostile Work Environment

In *Panzarino v. Deloitte & Touche LLP*, No. 05 Civ. 8502, 107 FEP Cases 1146 (S.D.N.Y. Oct. 29, 2009), the plaintiff, Pam Panzarino, filed a lawsuit against Deloitte & Touche LLP, alleging that her supervisor, Wendy Schmidt, had uttered derogatory comments about pregnant women on different occasions. She used such terms as "knocked up" and "about to pop" to described childbearing women. She also said that her

group needed more men to make up for the women on maternity leave. According to the District Court, Schmidt's eight comments relating to Panzarino's pregnancy were not sufficiently severe or pervasive to create a hostile work environment claim.

4. Pregnancy and Termination

In *Todaro v. Siegel Fenchel & Peddy* P.C., No. 04-CV-2939, 107 FEP Cases 845 (E.D.N.Y. 2009), the plaintiff, Maria Moscarelli, filed suit against defendant, Siegel, Fenchel & Peddy, P.C. for pregnancy discrimination. The District Court rejected the defendant's argument that Moscarelli's pregnancy discrimination claim fails as a matter of law because she was not pregnant at the time of discharge. The court held that if the plaintiff's former pregnancy contributes to the employer's adverse action, liability may arise.

5. Pregnancy and Retaliation

In *Germain v. County of Suffolk*, No. 07-CV-2523, 108 FEP Cases 208 (E.D.N.Y. May 29, 2009), the plaintiff also alleged that Suffolk County retaliated against her following her pregnancy discrimination lawsuit by refusing to allow her husband to transfer his sick leave time to her. The court found that the plaintiff satisfied the prima facie case for a retaliation claim. It also found that Suffolk County's stated purpose for refusing plaintiff's request may be pretext for retaliation. The defendant's motion for summary judgment failed.

In *Panzarino v. Deloitte & Touche LLP*, No. 05 Civ. 8502, 107 FEP Cases 1146 (S.D.N.Y. Oct. 29, 2009), the plaintiff also alleged that her discharge was retaliation for internal complaints. According to the court, because the plaintiff's internal complaints did not include allegations of gender discrimination, she had not engaged in protected activity. The plaintiff's Title VII claim was dismissed.

For a recent retaliation case outside of New York, see *LaFary v. Rogers Group, Inc.*, 591 F.3d 903, 108 FEP Cases 97 (7th Cir. 2010) (holding the plaintiff's claim that she was subject to pregnancy discrimination and retaliation failed because she was not similarly situated to a male employee rehired following his discharge).

E. TRENDS IN RECOVERY

EEOC statistics evidence that monetary benefits have increased from the beginning of the decade. *See* U.S. Equal Employment Opportunity Commission, Pregnancy Discrimination Charges EEOC & FEPAs Combined: FY 1997 – FY 2009, http://www1.eeoc.gov//eeoc/statistics/enforcement/pregnancy.cfm. Recent case law suggests that pregnancy discrimination payouts will continue to increase in the coming years.

Pregnancy and Punitive Damages

In *EEOC v. Siouxland Oral Maxillofacial Surgery Assoc., L.L.P.*, Nos. 07-2419/07-2420/08-1819/08-2048, (8th Cir. Aug. 27, 2009), the U.S. Court of Appeals for the Eight Circuit held that the district court erred in granting judgment as a matter of law with respect to punitive damages, rather than letting the jury decide.

In *EEOC v. Catholic Heatlhcare West*, No. CV06-01915 (C.D. Cal. Jan. 3, 2008), the U.S. District Court for the Central District of California held that the defendant hospital may be found liable for punitive damages over its pregnancy policy.

Pregnancy and Settlements

In *EEOC v. Crick Pictures L.L.C.*, No. 08-CV-5005 (N.D. Ill. Feb. 12, 2009), the U.S. District Court for the Northern District of Illinois approved a $75,000 settlement of an EEOC suit claiming that two movie production companies unlawfully failed to hire a pregnant applicant to assist a casting director on a film.