

LIFOCUS

Respecting expectant moms

Employees often don't know or speak up for their pregnancy-related rights

By **SARAH KIRKUP**

Yahoo chief executive Marissa Mayer's recent decision to take a mere two weeks off for maternity leave left working soon-to-be mothers with questions about their rights regarding pregnancy in the workforce.

Pregnant working women have certain rights – including taking maternity leave and returning to the same job after having the baby – under Title VII of the Civil Rights Act of 1964. But because the topic is not widely discussed, many women do not know their rights and are unsure how to proceed when dealing with pregnancy-related workplace discrimination.

The U.S. Equal Employment Opportunity Commission received 3,400 complaints regarding pregnancy discrimination in the workplace last year.

Pregnancy discrimination claims are given less attention in the media than other types of workplace discrimination, such as discrimination based on race, religion or gender, according to Tom Spiggle, an employment lawyer from Virginia who authored the book "You're Pregnant, You're Fired!"

Spiggle says women facing pregnancy-related discrimination are often too intimidated to speak up.

"Women don't feel as if there is a lot they can do," Spiggle told LIBN. "People with higher incomes fear that their career will be ruined if they speak up. But people have a lot more options than they realize."

In 2013, the EEOC reported that its New York district office had the fourth most pregnancy discrimination claims, behind Miami, Philadelphia and Charlotte, N.C.

"I think this is an ongoing trend," Spiggle said. "It has always been a problem, but now a lot of times women are the main bread-winners so staying at home is not an option."

The Pregnancy Discrimination Act requires that all companies treat expectant mothers by the same standards as employees in the same position at the company. In 2014 the EEOC updated its pregnancy discrimination enforcement guidance for employers.

According to the PDA, it's illegal to terminate, refuse to hire, demote or take any other adverse action against a woman if pregnancy, childbirth or a related medical condition was a motivating factor.

In the newly issued 2014 guidelines the EEOC added a fact sheet for small businesses and a

question-and-answer document. The fact sheet explains pregnancy harassment and the types of benefits workers are entitled to – including medical benefits, time off and light labor assignments.

The EEOC also wrote that pregnant workers are eligible for the same rights and time off as workers who are disabled and unable to work due to non-pregnancy related injuries.

For their own protection, employers should read these guidelines so they know what they are required to do, according to A. Jonathan Trafimow, a partner and chairman of the employment law group at Garden City law firm Moritt Hock & Hamroff.

"Because of the recent revision of the EEOC guidelines, employers and employees should educate themselves on issues of pregnancy discrimination," Trafimow said. "All employers should be revisiting policies for protecting everyone's rights."

The rights of pregnant workers were put to the test in an eight-year battle that concluded last month when three women who had been fired from a medical assistance company in New York City were awarded \$6.2 million in a pregnancy discrimination suit.

Manhattan-based attorney and trial counsel for the case Scott Lucas was assisted by East Meadow employment attorney Steven Mitchell Sack in a month-long trial, representing the women, who claimed they were mistreated because of their pregnancies while working as administrative staff at GEB Medical Management in 2006 and 2007. The company argued that the three women were fired because of poor performance. Sack called the verdict a victory for working mothers.

"Time and time again women are fired after being on maternity leave, and if you feel you are being mistreated you should go to a lawyer for guidance," Sack said.

The women won a combined \$181,000 in lost wages and \$1.5 million for punitive damages, plus \$1.5 million for each woman for emotional pain and suffering.

Employment lawyers who deal with discrimination cases advise pregnant women to be proactive and let the company know in a written letter about their pregnancy, before the company finds out on its own.

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Photo by Bob Gigliore

A. JONATHAN TRAFIMOW: Employers should familiarize themselves with the EEOC's guidelines on pregnancy discrimination.

"Part of the problem is women in the workforce find out they are pregnant and they avoid telling their employer as long as they can," Lucas said. "Sometimes then employers can find out about the pregnancy and terminate the women before anything is said about the pregnancy."

Lucas explains that notifying and documenting the pregnancy will help pregnant mothers stabilize their placement in the workforce. If after they notify human resources and sense a change in attitude, it is best to document it right away.

"Women on Long Island and everywhere else have a duty to document efforts of communication with the employer to tell them how they are feeling," Lucas said.

Even though pregnancy discrimination could hit women at all levels, expectant mothers in low-wage careers are particularly at risk. According to the EEOC the largest percentage of pregnancy discrimination claims happen with lower-salary jobs.

Affording childcare is another issue for women of limited means – one of the reasons many people had an issue with Mayer's announcement that she would quickly return to work.

"Marissa Mayer has a high profile and she has a high level of support that not all women have," Spiggle said. "She is sending out the overall message that this is the standard for women."

And her actions may make more women hesitant to take time off or speak up about discrimination, he said.