# Employer Needn't Be Angry About Pregnancy To Discriminate Against It

**by Lauren M. Weber - Monday, May 15, 2017**

The Minnesota Supreme Court recently rebuked a trial court for laboring under the false impression that an employer must be angry about an applicant's pregnancy in order to unlawfully discriminate against it.

Instead, pregnancy-based discrimination requires only a showing that the employer's action was motivated by the pregnancy.

**Not Expecting Job Offer To Be Withdrawn**

Family Orthodontics, P.A., a small clinic, offered Nicole LaPoint a job as an orthodontic assistant. After the offer was extended, LaPoint told the practitioner that she was pregnant, and they discussed the amount of maternity leave that would be available. LaPoint said she wanted twelve weeks of leave, but Family Orthodontics had a policy of allowing no more than six weeks (with only nine employees, federal and state leave laws would not apply here).

LaPoint offered to compromise at ten weeks but the employer ultimately rescinded the job offer, indicating they were concerned that LaPoint failed to mention her pregnancy during the interview and brought it up only after a job offer was extended. They said they were concerned about handling such a long leave and ended up hiring a different applicant who wasn't pregnant.

LaPoint sued for sex discrimination under the Minnesota Human Rights Act but the trial court ruled in favor of Family Orthodontics, finding that they did not demonstrate any actual hostility or animus toward LaPoint because of her pregnancy. Instead, they were just genuinely concerned

about the impact of a long maternity leave on their business.

LaPoint appealed to the Minnesota Court of Appeals, which reversed the district court's decision because they found a "specific link" between LaPoint's pregnancy and the clinic's decision not to hire her. Family Orthodontics then appealed to the Minnesota Supreme Court.

**Supreme Court Delivers Proper Legal Analysis**

The Supreme Court ruled that the trial court applied the wrong legal analysis in dismissing the case originally, and that the Appeals Court did not appear to correct that error when issuing their reversal. Therefore, they ordered the entire case remanded back to the trial court for a decision using the proper legal standards.

The Supreme Court zeroed in on the trial court's assertion that the claim of pregnancy-based discrimination was unsubstantiated because the employer lacked any anger or hostility about the pregnancy. They explained that "a finding of animus, in the sense of dislike or hostility, is not necessary for a forbidden criteria to 'actually motivate' an employer's decision." As such, all LaPoint had to do was establish that her pregnancy "actually motivated" Family Orthodontics' decision to rescind the job offer. While proof of animus against her may be relevant to the question of motivation, it is not a required element of a sex discrimination claim.

The matter was therefore remanded back to the trial court for further proceedings. This is where the true motivation behind the employer's admission that she was annoyed over LaPoint failure to divulge her pregnancy in the pre-employment process will be borne out.

**Bottom Line**

There certainly are times when employers might make an innocent remark or a simple mistake that does not reflect actual hostility toward pregnancy (or some other protected class) but might sill belie an unlawful motive. Under the "actual motivation" standard that the Supreme Court announced in this case, however, employers should redouble their efforts to limit those statements as much as humanly possible.

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