

An Employer's Obligation to Accommodate an Employee Disabled by Pregnancy Is Not Limited by California's Pregnancy Disability Leave Law

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In *Sanchez v. Swissport, Inc.*, a California appellate court recently found that an employee who exhausted all permissible leave available under California's Pregnancy Disability Leave Law (PDLL) stated a cause of action under the California Fair Employment and Housing Act (FEHA) for employment discrimination.

Defendant Swissport, Inc. employed Plaintiff Ana G. Fuentes Sanchez for approximately a year and half when she was diagnosed with a high-risk pregnancy, requiring bedrest. She alleged that Swissport was aware of her due date, October 19, 2009, and that she needed a leave of absence until she gave birth. According to Ms. Sanchez, her employer afforded her just over 19 weeks of leave, consisting of her accrued vacation time in addition to the time allotted by the California Family Rights Act (CFRA) and the PDLL, before abruptly terminating her employment. She claims that at no time did her employer ever contact her to engage in a timely, good faith interactive process in order to identify available accommodations, such as an extended leave of absence, so that she could remain employed.

Swissport moved to dismiss the case, asserting that it had necessarily satisfied all of its obligations under the FEHA because it had provided Ms. Sanchez with all of the leave mandated by the PDLL and the CFRA for her pregnancy-related disability. The court disagreed that the PDLL is the exclusive remedy for an employee seeking accommodation of her pregnancy-related disability, concluding that the PDLL's remedies augment, rather than supplant, those set forth elsewhere in the FEHA. Under the FEHA, a woman disabled by pregnancy is entitled to the protections afforded any other disabled employee – a reasonable accommodation that does not impose an undue hardship on her employer. Depending on the circumstances, disability leave may exceed four months. Because an employer's compliance with the PDLL simply extinguishes any cause of action under the PDLL rather than the FEHA as a whole, employers must take care to engage in an appropriate interactive process to avoid claims of disability discrimination.

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