

Costs of Caregiver Discrimination Increasing for Employers

New Report Says Family Responsibilities Discrimination Cases on the Rise, Cost More

(SAN FRANCISCO, February 22, 2010) – Treating employees less favorably because they have family caregiving obligations can land employers in court and result in significant liability, a new report by the Center for WorkLife Law concludes.

Litigation aimed at bias against U.S. workers who care for children or aging parents has increased 400% in the past decade and the average verdict now tops \$500,000, WorkLife Law says. Cases have been brought in every state and every industry, and against large and small employers. Employees prevail in about half of the cases – significantly more frequently than in other types of employment cases.

Employer actions that have resulted in verdicts include:

- Selecting an employee for layoff because she was pregnant;
- Denying a promotion to a female employee because she was the mother of young children;
- Firing a male employee who was on approved leave to care for a foster child;
- Instituting production quotas that could not be met by a male employee on intermittent leave to care for his seriously ill parents, and then firing him for not meeting the quotas.

“Laws are broken when supervisors make assumptions about the value of employees based on their family caregiving responsibilities and then take negative personnel actions, regardless of the employees’ actual performance,” said the report’s author, Cynthia Thomas Calvert, Deputy Director of WorkLife Law.

“Fortunately, employers can protect themselves against these lawsuits,” Calvert continued. “A good prevention program includes training supervisors so they can recognize the assumptions and be prepared to react in a more appropriate way.”

The report, *Family Responsibilities Discrimination: Litigation Update 2010*, is based on an analysis of over 2100 cases. Most cases reviewed were related to pregnancy and maternity leave (67%). Other cases related to elder care (9.6%), care for sick children (7%), care for ill spouses (4%), time off for newborn care by fathers or adoptive parents (3%), and care for a family member who has a disability (2.4%). Most cases (88%) were filed by women; 12% were filed by men. The report is available on WorkLife Law’s website, www.worklifelaw.org.

Family responsibilities discrimination is discrimination against employees who have family caregiving obligations, such as pregnant women, mothers and fathers of young children, and workers with sick or aging parents. Some state and local laws prohibit this kind of discrimination outright.

Employees also use a variety of state and federal anti-discrimination and family leave laws to sue their employers. Many of the cases studied for the report involved the use of the federal sex discrimination law, Title VII of the Civil Rights Act of 1964, and the federal Family and Medical Leave Act.

In 2007, the U.S. Equal Employment Opportunity Commission issued enforcement guidance about caregiver discrimination that detailed how Title VII protects employees from discrimination based on family responsibilities.

About the Center for WorkLife Law

The Center for WorkLife Law is the leading authority on family responsibilities discrimination. It is a nonprofit research and advocacy organization that works with employers, employees, attorneys, legislators, journalists, and researchers to identify and prevent employment discrimination against workers with family caregiving obligations. WorkLife Law is based at the University of California Hastings College of the Law in San Francisco and is directed by Joan C. Williams, Distinguished Professor of Law. It was founded as the Program on Gender, Work & Family at American University Washington College of Law in 1998. It is supported by research and program development grants, university funding, and private donations. More information is available at its website, www.worklifelaw.org.

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For more information, contact:

Cynthia Calvert

(410) 480-4882

CynthiaCalvert@worklifelaw.org