

Jim Hammerschmidt Provides Commentary in Article titled “Preventing Pregnancy Discrimination”

Jim Hammerschmidt provided commentary in an article written by Mark McGraw titled: "Preventing Pregnancy Discrimination," which was published on Human Resource Executive Online on March 21, 2017.

"This employee is clearly protected and the law is clear that it is the employee's decision whether to accept the risk" associated with a given job, says Hammerschmidt, noting that EEOC guidelines for pregnancy discrimination and related issues state that "an employer's concern about risks to the employee or her fetus will rarely, if ever, justify sex-specific job restrictions for a woman with childbearing capacity."

This case "did not proceed past the complaint and answer stage in litigation, so we do not have the benefit of the employer's version of the facts. That said, the facts as alleged by the employee are quite bad," adds Hammerschmidt, pointing to the defendant's firing just two days after informing the organization of her pregnancy, and her claim that she was told that exposure to certain chemicals precluded her from doing the job.

[...]

The events that landed RTG on the wrong side of the agency should serve as an example for other employers, says Hammerschmidt.

"There are certain situations that should set off alarm bells for decision makers," he says. "This is one of them."

"Supervisors and managers need to understand that, when an adverse personnel decision is under consideration for an employee who is in a protected class, particularly one who announced her pregnancy just days earlier . . . a subject matter expert within the company needs to be involved," continues Hammerschmidt. "These decisions should not be left in the hands of untrained line supervisors."

The full article, "Preventing Pregnancy Discrimination," can be found on hreonline.com.

Jim is Co-Chair of the firm's Employment Law practice group and a member of the firm's Litigation and Appellate practice groups.