

U.S. EEOC PHILADELPHIA DISTRICT OFFICE



Legal Update

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Pregnancy Discrimination

The Pregnant Workers Fairness Act (The PWFA)

Title VII of the Civil Rights Act of 1964 (Title VII)

As amended by The Pregnancy Discrimination Act (The PDA)



EEOC v. Security Assurance Management, Inc.



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EEOC v. Security Assurance Management, Inc.



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EEOC v. Security Assurance Management, Inc.

- ▶ **Count One: Failure to Accommodate in Violation of the PWFA (42 U.S.C. § 2000gg1(1))**
- ▶ **Count Two: Adverse Actions on Account of Requesting Reasonable Accommodations in Violation of the PWFA (42 U.S.C. § 2000gg-1(5))**
- ▶ **Count Three: Denial of Employment Opportunities Based on the Need to Make Reasonable Accommodations in Violation of the PWFA (42 U.S.C. § 2000gg-1(3))**

EEOC v. Security Assurance Management, Inc.

- ▶ Count Four: Retaliation for Engaging in Protected Activities Under the PWFA (42 U.S.C. § 2000gg-2(f)(1))
- ▶ Count Five: Interference with Statutorily Protected Rights Under the PWFA (42 U.S.C. § 2000gg-2(f)(2))
- ▶ Count Six: Discrimination on the Basis of Sex in Violation of Title VII (42 U.S.C. § 2000e2(a)(1)) as Amended by the PDA (42 U.S.C. § 2000e(k))
- ▶ Count Seven: Retaliation for Engaging in Protected Activities in Violation of Title VII (42 U.S.C. § 2000e-3(a))

Other Recent Pregnancy Discrimination Cases

- ▶ *EEOC v. Support Center for Child Advocates*
 - U.S. District Court for the Eastern District of Pennsylvania
 - Charging Party forced to resign after being denied a medical accommodation given to a non-pregnant employee
- ▶ *EEOC v. Kurt Bluemel, Inc.*
 - U.S. District Court for the District of Maryland
 - \$40,000 for Charging Party not permitted to return from maternity leave
 - Policy, training, notice posting
- ▶ *EEOC v. R&L Carrier Shared Services, LLC*
 - Subpoena enforcement action

Sexual Harassment

Title VII of the Civil Rights Act of 1964



EEOC v. AMZ Manufacturing, Inc.

- ▶ U.S. District Court for the Middle District of Pennsylvania
- ▶ Emily Rietschy (Production Planner)



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EEOC v. AMZ Manufacturing, Inc.

- ▶ Email to HR and General Manager:
- ▶ “His behavior cannot be blamed on anything but the fact that he continuously is allowed to get away with it.”
- ▶ “[I]t won’t change because he isn’t required to change.”
- ▶ “[T]he worst part ... [is] the fact that it won’t change because he isn’t required to change.”



EEOC v. AMZ Manufacturing, Inc.



“[H]ow are any of the females in that facility supposed to feel safe when sexual harassment concerns aren’t addressed in a timely manner?”

EEOC v. AMZ Manufacturing, Inc.

- ▶ Tabatha Altland (a Plater)
- ▶ Harassment occurred after Ms. Rietschy complained and quit
- ▶ Lasted nearly two years
- ▶ Vulgar comments about Ms. Altland's body, sexual propositioning, touching, stalking
- ▶ Conduct repeatedly reported to direct supervisor
- ▶ Written complaint
- ▶ Harasser fired for workplace violence unrelated to Ms. Altland.

EEOC v. AMZ Manufacturing, Inc.



\$110,000 in compensatory damages

Stronger sexual harassment policy

Third-party ombudsman to receive and investigate any future sexual harassment complaints

Reporting to EEOC

Employee training on preventing and addressing sexual harassment

Additional training for managers

Retaliation

Prohibited by all of the statutes the EEOC enforces.



EEOC v. Pro Pallet, LLC

U.S. District Court for the Middle District of Pennsylvania





What is
protected
activity?

The Manager Rule?



“In the Commission's view, all employees who engage in opposition activity are protected from retaliation, even if they are managers, human resources personnel, or other EEO advisors. The statutory purpose of the opposition clause is promoted by protecting all communications about potential EEO violations by the very officials most likely to discover, investigate, and report them; otherwise, there would be a disincentive for them to do so.”

EEOC ENFORCEMENT GUIDANCE ON RETALIATION AND RELATED ISSUES at II.A.2.d (issued Aug. 26, 2016).

The Manager Rule?

DeMasters v. Carilion Clinic, 796 F.3d 409, 422 (4th Cir. 2015)

EEOC v. Pro Pallet, LLC

- ▶ \$50,000
- ▶ Revision of anti-harassment and anti-retaliation policies
- ▶ Training
- ▶ Reporting to EEOC of future complaints

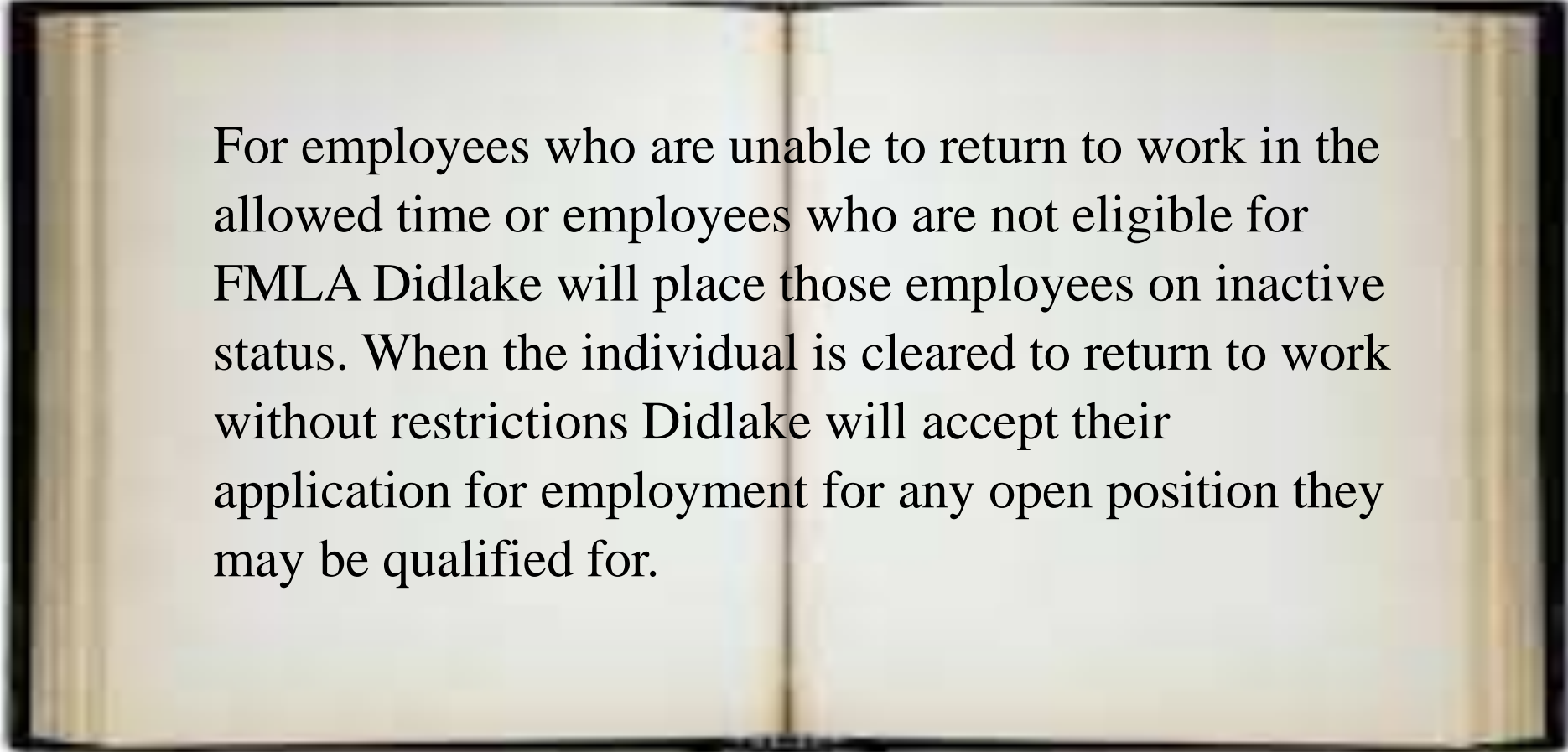


Disability Discrimination

- ▶ The Americans With Disabilities Act (the ADA)



EEOC v. Didlake, Inc.

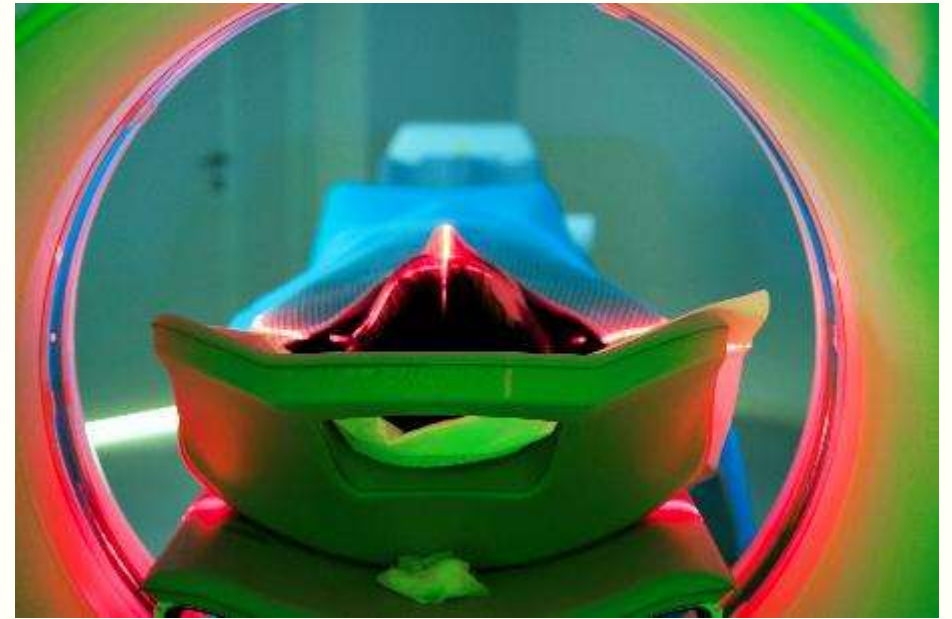
An open book with a dark cover is shown, lying flat. The pages are a light cream color and contain black text. The text is centered on the pages and describes the company's policy for employees on inactive status.

For employees who are unable to return to work in the allowed time or employees who are not eligible for FMLA Didlake will place those employees on inactive status. When the individual is cleared to return to work without restrictions Didlake will accept their application for employment for any open position they may be qualified for.

EEOC v. Didlake, Inc.



EEOC v. Didlake, Inc.



EEOC v. Didlake, Inc.

Denial of ASL Interpreters



EEOC v. Didlake, Inc.



\$1,017,500

Revamping of policies

Ensuring ASL accommodations

Training

Reporting to EEOC

Supreme Court Update



- ▶ *Ames v. Ohio Department of Youth Services*
- ▶ The question presented is:
 - “Whether the court of appeals erred in holding that, in addition to making out the usual prima facie case of discrimination at the first step of the *McDonnell Douglas* framework, a plaintiff who is a member of a ‘majority’ group also must establish ‘background circumstances’ tending to show that the employer would discriminate against a member of the majority.”

Ames v. Ohio Department of Youth Services

- ▶ In December 2024, EEOC joined the then Solicitor General's *amicus curiae* brief.
- ▶ The government argued that:
 - Title VII does not require a showing of “background circumstances” to establish a prima facie case where the plaintiff is a member of a “majority” group.
 - Section 703(a)(1) of Title VII applies equally to discrimination against any individual, whether a member of a minority or majority group, and that the *McDonnell Douglas* framework's evidentiary standards do not vary depending on a plaintiff protected characteristic.





Questions?
www.eeoc.gov



Thank You!

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