

**The Refusal to Accommodate Pregnant Workers:
Real Accounts of the Devastating Consequences for
Workers and Their Families**

Compiled By:

A Better Balance: The Work & Family Legal Center

American Civil Liberties Union

California Women's Law Center

Equal Rights Advocates

Legal Aid Society-Employment Law Center

Legal Momentum

National Partnership for Women and Families

National Women's Law Center

This document provides accounts of pregnant workers who were denied minor adjustments to their job duties that they needed to continue safely working throughout pregnancy. It also explains the painful health and economic consequences to these workers and their families.

Today, women make up half the workforce, and most women will be pregnant and employed at some point. The Pregnant Workers Fairness Act would ensure that all pregnant workers can get minor workplace adjustments they need to continue working during pregnancy.

The stories included here are provided by the organizations below that advocate for women and families, including several that provide direct legal representation to women workers who face workplace discrimination.

The accounts are organized alphabetically by state. Note that because California has a law providing these basic protections to pregnant workers, the accounts from California end on a much happier note than the stories from every other state.

Pregnant Program Counselor in California Denied Minor Job Modification and Forced on to Unpaid Leave

Laura works as a program counselor at a facility for people with developmental disabilities. When she was pregnant, her doctor recommended that she not bend or twist when securing wheelchairs to a bus. She asked her supervisor to allow her to make this minor adjustment to her job duties. Her supervisor responded by forcing Laura on to unpaid leave for the rest of her pregnancy, even though she was not disabled and could do her job with this minor accommodation. Her employer also threatened to fire her if she didn't return to work in four months. After Legal Aid Society-Employment Law Center informed her employer of Laura's right to a workplace accommodation under California law, Laura was reinstated and given the adjustment she needed. Laura recently had a healthy baby boy and is looking forward to returning to work. She believes that "all women should have this basic protection." Contact: Sharon Terman, sterman@las-elc.org.

Pregnant Security Worker in California Denied Stool to Sit and Forced on to Leave

Maria,* a security worker in California, requested a stool to sit on and more frequent assignment rotation when she discovered she was pregnant. Her employer initially refused to accommodate her pregnancy limitations and placed her on involuntary early leave. Maria contacted Equal Rights Advocates, who informed Maria's employer that California law required it to provide

employees with reasonable pregnancy accommodations. The matter was quickly resolved without litigation; Maria's employer allowed her to continue working in an accommodated position, enabling Maria to continue to financially support herself and her family. This arrangement also benefitted the employer by improving worker morale and avoiding the unnecessary time and expense of recruiting, hiring, and training Maria's replacement.

Contact: Noreen Farrell, nfarrell@equalrights.org.

* Name changed to protect privacy.

Pregnant Retail Worker in Indiana Denied Light Duty When Doctor Recommended Lifting Restriction, Suffered Pregnancy Complications, and Was Fired

When Shelly* became pregnant she was working two jobs to support her family: the overnight shift stocking shelves for a major national retail chain and the day shift packing items to ship for a medical supply company. Shortly after she became pregnant, her doctor advised her not to lift more than 20 pounds. When she told the medical supply company about her lifting restrictions, the company immediately accommodated these restrictions. The major national retailer refused to modify her duties; requiring her to continue to lift heavy items. She experienced a lot of pain while doing the heavy lifting and miscarried shortly thereafter. When she became pregnant months later she was told she still could not get any modification of her duties, despite management's awareness of her previous miscarriage. She was told her only option was to take unpaid FMLA leave. Her doctor refused to state on the company's FMLA form that she needed to go on leave, since she was a healthy woman, and only needed to avoid lifting more than 20 pounds. When she communicated this to the company, she was fired. She filed a case in court against the company but lost. In her words, the experience "destroyed my life, ruined my health, and ruined my marriage." Contact: Emily Martin, emartin@nwlc.org.

*Name changed to protect privacy.

Pregnant Louisiana Airline Ticket Agent Denied Light Duty When Doctor Recommended Lifting Restriction, Suffered Pregnancy Complications

When an airline ticket agent in Louisiana was told by her doctor not to lift anything heavy at work, she didn't expect to run into problems at her job. The airline had allowed her to have a "light duty" assignment during her first pregnancy. But this time she was told that if she provided a doctor's note requiring any work-related restrictions, she would be immediately placed on unpaid leave. Going months without a paycheck was not a viable option for her family so she continued to work. Throughout her pregnancy, she was repeatedly called on to lift heavy bags on and off the baggage ramp and required to work 10- and 12-hour days on her feet. Toward the end of her pregnancy, she incurred a condition called stress-induced toxemia. As a result, she went into labor prematurely and her child suffered numerous health complications. Contact: Michelle Caiola, mcaiola@legalmomentum.org.

Pregnant Michigan Firefighter Denied Light Duty When Doctor Recommended Lifting Restriction and Forced on to Leave

When a firefighter in Michigan told her supervisor she wanted to start a family and asked whether temporary modifications in her duties would be available, she received a flat no. She was told there was no light duty for pregnant firefighters, and that the department had no interest in adopting such a policy because it was a woman's choice whether to be pregnant or not. Hearing this, the firefighter made the decision to postpone a family, but then unexpectedly became pregnant. After her first doctor visit, her doctor stated she was "fit for duty" but also gave her a lifting restriction. She faced an impossible choice: take leave she and her husband could not afford or go against her doctor's orders. For months, she worked while hiding the pregnancy, but eventually she told her employer she was pregnant and made a formal request for modifications to her job. Although job modifications had been granted to other firefighters unable to work full duty for reasons other than pregnancy, her request was denied, and she was forced on to leave. She lost income, pension and other benefits, as well as seniority accrual, at a time when her family simply could not afford to take this financial hit. Contact: Michelle Caiola, mcaiola@legalmomentum.org.

Pregnant Worker in Minnesota Denied Permission to Work Indoors on Extremely Hot Days While Workers with Work-Related Conditions Were Permitted to Do So

Diana Teigland has been a letter carrier for the United States Postal Service for the past 9 years in Minnesota, but this past summer her doctor put her on a heat restriction—limiting her time outside on extremely hot days—because of her pregnancy. Unfortunately, this past summer had a great number of very hot days. Even though her employer provides indoor work for work-related conditions, they will not provide inside duties for her. This means that each day she can't work outside she has to use a valuable sick day, which she needs to save for recovering from childbirth. She currently has 7-1/2 weeks until delivery and has 48 minutes left of annual leave and 4 hours left of sick leave. She feels like she is being punished for being pregnant. She cannot afford to go without income and wants the same protections as her co-workers. Contact: Dina Bakst, dbakst@abetterbalance.org.

Pregnant Train Conductor in Mississippi Denied Light Duty and Forced on to Leave

Angie, a pregnant train conductor in Mississippi, was forced to take leave from work early in her pregnancy because her employer refused to accommodate her pregnancy-related lifting restriction. Only a small fraction of Angie's job duties included lifting, and other employees could have easily covered the occasional lifting tasks for her. Additionally, her employer had a policy of providing light duty assignments to employees injured on the job, but denied this accommodation to Angie. As a result, Angie was forced to take three extra months of unpaid leave during which she was able and willing to work with a simple accommodation. Angie

contacted Equal Rights Advocates (ERA) in San Francisco to help her obtain an accommodation, but ERA was limited in its ability to help because courts in Angie's circuit have interpreted the Pregnancy Discrimination Act to allow employers to refuse to provide accommodation to pregnant women while providing it to employees who are injured on the job. Because Angie is a single mother, this caused immense stress and financial strain for her and her new family.

Contact: Noreen Farrell, nfarrell@equalrights.org.

Emergency Room Physician Recounts Story of Pregnant Retail Worker in New York with Severe Dehydration Because She Was Prohibited from Drinking Water on the Job

Dr. Lucy Willis is a Board Certified physician specializing in emergency medicine, and she practices at New York Downtown Hospital in Manhattan. In the spring of 2012, she treated a pregnant woman who arrived in the emergency department during her shift. She was working as a cashier at a large retailer in the city and was 16 weeks pregnant. Despite doctor's orders that she remain vigilant about drinking water, she was severely dehydrated. When Dr. Willis inquired why she was not drinking adequate amounts of fluids, she told her that her boss would not allow her to drink water while working at the cash register. While standing for hours at the register, the woman fainted and collapsed. She was rushed to the hospital by ambulance, where Dr. Willis ordered her intravenous fluids. According to Dr. Willis, "[d]ehydration can lead to miscarriage, and while pregnant women are already at increased risk of fainting (due to high progesterone levels causing blood vessel dilatation), dehydration puts them at even further risk of collapse and injury from falling." Contact: Dina Bakst, dbakst@abetterbalance.org.

Pregnant Fleet Service Clerk in New York Was Denied Light Duty When Doctor Recommended Lifting Restriction and Forced on to Unpaid Leave

A fleet service clerk for a major airline at JFK airport in New York was given lifting restrictions by her doctor when she was eight weeks pregnant. She told her supervisor about the restrictions and assured him that she was completely healthy and could perform all of the other aspects of her job. In fact, her job description included many tasks that did not require lifting – including clerical duties, tasks that were mechanized like driving a forklift, and cleaning cabins of aircraft. Despite this, her supervisor informed her that the company did not allow pregnant women to utilize its "light duty policy," although modified duties were available to employees who were injured. Instead, she was immediately sent home on unpaid leave for the duration of her pregnancy. As a single mother of several children, months without a paycheck were extremely difficult for her and for her family. Contact: Michelle Caiola, mcaiola@legalmomentum.org.

Pregnant Customer Account Representative in South Carolina Forced on to Unpaid Leave

Natasha Jackson, a customer account representative at a Rent-A-Center in South Carolina, initially had no problem continuing her work after she became pregnant. Although her job occasionally called for her to lift heavy furniture, during the first month of her pregnancy her manager accommodated her without incident—other workers were available to move large items. However, once the district manager found out that Natasha was pregnant and the occasional lifting in her job was being done by her coworkers, he placed her on a two week paid vacation and sent a medical certification form to her doctor to determine whether she qualified for FMLA leave. When the doctor wrote on the paperwork that she should not lift more than twenty pounds, she was pushed onto unpaid leave because her job description called for “heavy lifting.” This was despite the fact that she had already proven she could do her job with the minor modification that had been allowed by her immediate supervisor. Although she repeatedly requested to return to work, the employer refused to allow her to do so. She was ultimately terminated after exhausting her unpaid leave time. Being pushed on to unpaid leave and out of her job had severe economic consequences for Natasha and her family. At the time, Natasha and her husband had a down payment on a house and were waiting to close the deal. However, when she was no longer bringing in income, they lost the house. Natasha took her case to arbitration, but the arbitrator found that Rent-A-Center's actions were non-discriminatory and Natasha was left with nothing. Contact: Dina Bakst, dbakst@abetterbalance.org.

Pregnant Worker in Washington, D.C., Denied Bathroom and Water Breaks and Ultimately Fired

Jane Doe worked at a casual eatery in Washington, D.C., preparing food and working “on the line” serving customers. After Jane became pregnant, she needed more frequent bathroom breaks and to be allowed to drink water and eat on her scheduled breaks. Her supervisor yelled at her publicly when she returned from the bathroom, ordering her – but no one else – to notify all of the other employees and to get his consent before using the bathroom. Although employees were entitled to 15-minute breaks during their four-hour shifts, he often refused to let her take a break, even though she needed to eat because she was hungrier than usual as a result of her pregnancy. Her supervisor also denied her access to water during her four-hour shifts. When Jane asked for advance permission to leave early from a shift to attend a prenatal medical appointment, she got no response from her supervisor, despite asking him repeatedly for an answer. The day of the appointment her supervisor told her she could not leave and threatened to fire if she did. She explained it was an important prenatal appointment and she needed to go. She kept the appointment, and when she returned to work, he immediately fired her. Contact: Emily Martin emartin@nwlc.org.