

Reminder: Pregnant Employees Are A Protected Class

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This should come as no newsflash: Just because you own a company, an organization, a pro basketball team or a pro baseball team, does not mean that you have a license to do or say whatever you want. At least, not without stirring up some trouble. Donald Sterling, the former owner of the L.A. Clippers was ousted from the NBA after allegedly racist remarks were made public. Last week, we learned that Atlanta Hawks controlling owner Bruce Levenson self-reported that he sent a racist email in August 2012 and that he is selling his interest in the team as a result. And now an executive who was recently fired by the New York Mets has sued the team in a New York federal court for discriminating against her because she was pregnant. In *Castergine v. Sterling Mets Front Office LLC*, the executive accuses Jeffrey Wilpon – the son of the Mets’ principal owner – of making insensitive comments about her being unmarried and pregnant. She claims that Wilpon said that he was “morally opposed” to unmarried women being pregnant, for example, and that she would make more money and receive a bigger bonus if she were to get engaged. The executive was fired sometime after she complained about Wilpon’s comments to the Mets’ Human Resources Department. Of course, she claims that she was fired for complaining. The Mets, on the other hand, say that she was fired for poor performance. Whatever the actual reason, the case is noteworthy – and not just because it involves another professional sports team – and a good reminder for all of us. Most employers know that it is against to the law to discriminate against a female employee because of her sex. But fewer employers remember that it is also against the law to discriminate against a female employee because she is pregnant. That is the case, though. The Pregnancy Discrimination Act – and state equivalents in New York and elsewhere – say as much. Cases like *Castergine* demonstrates that an employer can subject itself to liability if it treats an employee differently because she is pregnant (or if it retaliates against her for complaining of different treatment) in the same way that an employer can subject itself to liability if it treats an employee differently because of her sex (or, again, if it retaliates against her for complaining of different treatment).

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