

Exhaustion of Leave Under the Pregnancy Disability Leave Law does not Prevent an Employee from Making a Claim Under the FEHA, Court of Appeal Rules

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In *Sanchez v. Swissport*, the [California Court of Appeal, Second Appellate District](#), determined that an employee who has exhausted all permissible leave available under the [Pregnancy Disability Leave Law](#) (PDLL), Gov. Code 12945, can also state a cause of action under the [California Fair Employment and Housing Act](#) (FEHA), Gov. Code 12900 et seq.

Plaintiff requested temporary leave from her job with Swissport due to a high-risk pregnancy. She alleged in her complaint that Swissport granted her the four months of disability leave, which is the amount of leave an employer must allow for under the provisions of the PDLL. However, she also alleged she was entitled to additional leave as reasonable accommodations for her pregnancy-related disability under the FEHA, independent of the leave provisions provided in the PDLL. Swissport argued that, once it had fulfilled its requirement to provide four months of leave under the PDLL, it necessarily satisfied all of its obligations under the FEHA.

The Court of Appeal agreed with Plaintiff, and not with Swissport. As the Court explained, the requirements of the PDLL were meant to augment, not supplant, those set forth elsewhere in the FEHA. For this reason, an employer might satisfy its requirements under the PDLL, but still might have additional requirements under the FEHA.

The FEHA requires an employer to provide reasonable accommodations to an employee suffering from a disability, including the temporary impairments associated with pregnancy, unless the employer can demonstrate that the accommodation would produce undue hardship to its operation. There are no statutory limits on the amount of leave that might be required as a reasonable accommodation under the FEHA.

Thus, where an employee requires reasonable accommodation of her pregnancy in the form of leave that exceeds four months, and where the employer is able to provide such accommodation without undue hardship, the employer is not permitted to terminate the employee simply because she has already been on leave for four months, and thus exhausted the leave provisions of the PDLL.

Please contact [Michael Newman](#) if you would like to discuss the issues in this article.

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