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## Supreme Court Holds No Pregnancy Bias in AT&T Pension Benefits Calculations

The U.S. Supreme Court has determined that AT&T did not violate laws against sex and pregnancy discrimination when the company calculated pensions less favorably for women who took maternity leave prior to the passing of the Pregnancy Discrimination Act (PDA) than for employees who took time off due to disabilities. (*AT&T Corp. v. Hulteen*, Case No. 07-543).

AT&T had long based pension calculations on a seniority system that relied on years of service minus uncredited leave time. The system gave less retirement credit for absences due to pregnancy than for medical leave generally. In 1976, the Supreme Court held that such a policy did not violate Title VII of the Civil Rights Act of 1964. In response, Congress added the PDA, which amended Title VII to make it clear that it is discriminatory to treat pregnancy-related conditions less favorably than other medical conditions.

In response to the PDA, AT&T replaced its old system for calculating pension entitlement with one that provided the same service credit for pregnancy leave as for other disabilities prospectively, but did not make any retroactive adjustments for maternity leave before the enactment of the PDA. Ms. Hulteen and others whose pre-1979 maternity leaves were given less credit than others using disability leave filed suit against AT&T.

In a 7-2 decision, the Supreme Court ruled that AT&T's reliance on a seniority system that disadvantaged pregnant employees to reduce their pension benefits today is not a current violation of Title VII's proscription against sex and pregnancy discrimination. Writing for the majority, Justice David Souter emphasized that AT&T's policy of granting limited service credit for pregnancy leave was lawful when it operated prior to 1979, the effective date of the PDA. Furthermore, there was nothing in the PDA that required AT&T to grant retroactive service credit to employees who took pregnancy leave under the company's older policy.

There was considerable speculation that the newly enacted Ledbetter Fair Pay Act of 2009 would affect the outcome of the *Hulteen* case. The Ledbetter Act adjusted the statute of limitations for unequal pay claims by providing that an employer can be held liable for a discriminatory act that occurred in the distant past, if it resulted in unequal pay in the present. The Supreme Court distinguished the *Hulteen* case, pointing out that AT&T's pre-PDA calculations were not illegal or discriminatory at the time they were made.

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