

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

KATIA HILLS,

Plaintiff,

-against-

AT&T MOBILITY SERVICES LLC a/k/a
AT&T MOBILITY LLC,

Defendant.

Civil No.: 3:17-cv-00556-JD-MGG

**DEFENDANT'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

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I. INTRODUCTION

Plaintiff's motion is based on speculation and a flawed argument that AT&T violates the Pregnancy Discrimination Act simply because it does not automatically excuse absences that may occur during pregnancy. The PDA neither mandates pregnancy leave nor requires that employers excuse all absences, even if pregnancy related. Rather, it requires that AT&T treat pregnant employees the same as other employees who are similar in their ability or inability to work.

In her motion, Plaintiff shows that *some* of her absences during pregnancy were not excused, but there is a genuine issue as to whether those were pregnancy-related. She ignores the evidence that absences shown to be pregnancy-related *were excused* by AT&T. Significantly, she fails to show that AT&T treated any non-pregnant employees any differently.

Plaintiff bears a high burden on summary judgment. She must establish through admissible evidence that no reasonable jury could find for AT&T on her claim under the PDA. On the record before this Court, a reasonable jury could certainly find that AT&T *did not* intentionally discriminate against Plaintiff. Therefore, her motion for partial summary judgment on Count One of her Complaint must be denied.

II. SUMMARY OF MATERIAL FACTS

A. Plaintiff's Employment with AT&T Mobility

During the relevant time, AT&T Mobility ("AT&T") operated retail stores in Indiana, managed by store managers and staffed by non-management, non-exempt bargained for employees ("Sales Employees"). (SMF ¶¶ 77-78).¹ From April 7, 2014 to July 16, 2015, Plaintiff

¹ Defendant's Rule 56-1 Statement of Genuine Disputes and Additional Material Facts, hereafter referred to as "SMF," is appended hereto.

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