

**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**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	SUMMARY OF MATERIAL FACTS	1
	A. Plaintiff's Employment with AT&T Mobility	1
	B. AT&T's Neutral Attendance Management Policy.....	2
	C. Plaintiff's Attendance History.....	4
III.	ARGUMENT.....	7
	A. The SAG is facially neutral.....	8
	B. Plaintiff has not met her burden under Rule 56.	10
	1. Plaintiff fails to meet her <i>prima facie</i> burden.	11
	2. Plaintiff fails to show that no reasonable jury could believe AT&T's reasons for denying Plaintiff excused absences.	14
	C. Plaintiff fails to demonstrate that AT&T was aware that her unexcused absences were pregnancy-related.....	16
IV.	CONCLUSION	18

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Anderson v. Liberty Lobby, Inc.</i> , 477 U.S. 242 (1985).....	8
<i>Antonetti v. Abbott Labs.</i> , 563 F.3d 587 (7th Cir. 2009)	13
<i>Armfield v. Key Plastics, LLC</i> , No. 1:08 CV 110, 2011 U.S. Dist. LEXIS 80482 (N.D. Ind. July 22, 2011)	7
<i>Durham v. Rural/Metro Corp.</i> , 955 F.3d 1279 (11th Cir. 2020)	12
<i>Durham v. Rural/Metro Corp.</i> , No. 4:16-cv-01604-VEH, 2018 WL 7892084 (N.D. Ala. Mar. 19, 2018)	12
<i>Hong v. Children's Mem'l Hosp.</i> , 993 F.2d 1257 (7th Cir.1993)	13
<i>Legg v. Ulster Cnty.</i> , 820 F.3d 67 (2d Cir. 2016).....	12
<i>Matsushita Elec. Indus. Co. v. Zenith Radio Corp.</i> , 475 U.S. 574 (1986).....	8
<i>McDonnell Douglas Corp. v. Green</i> , 411 U.S. 792 (1973), as modified by <i>Young v. United Parcel Servs. Inc.</i> , 575 U.S. 206 (2015).....	10
<i>McLaughlin Equip. Co. v. Servaas</i> , No. IP98-0127-C-T/K, 2004 WL 1629603 (S.D. Ind. Feb. 18, 2004).....	7, 13, 15
<i>Meadors v. Ulster Cnty.</i> , No. 1:09-cv-550, 2011 WL 12496693 (N.D.N.Y. Apr. 1, 2011), vacated and remanded sub nom. <i>Legg v. Ulster Cnty.</i> , 820 F.3d 67 (2d Cir. 2016).....	13
<i>Nissan Fire & Marine Ins. Co. v. Fritz Cos.</i> , 210 F.3d 1099 (9th Cir. 2000)	7
<i>Santos v. Wincor Nixdorf, Inc.</i> , No. 1:16-CV-440-RP, 2018 U.S. Dist. LEXIS 48736 (W.D. Tex. Mar. 23, 2018)	12
<i>Tex. Dep't of Cmty. Affairs v. Burdine</i> , 450 U.S. 248 (1981).....	7

..

Young v. United Parcel Servs.,
575 U.S. 206 (2015)..... *passim*

Statutes

42 USC 2000e(k)8

Other Authorities

Fed. R. Civ. P. 56(a)7

U.S. Equal Employment Opportunity Commission, *Enforcement Guidance on
Pregnancy Discrimination and Related Issues* (June 25, 2015), available at
[https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-
discrimination-and-related-issues](https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-discrimination-and-related-issues)10

...

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.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.