

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ANNA MEISTER,

*Plaintiff,*

-against-

DAVITA HEALTHCARE PARTNERS, INC.  
and DAVITA, INC.,

*Defendants.*

**Case No. 21-CV-4245**

**COMPLAINT**

**JURY TRIAL DEMANDED**

**NATURE OF ACTION**

Anna Meister (“Plaintiff”), by her attorneys, Crumiller P.C., brings this complaint against DaVita Healthcare Partners, Inc. and DaVita, Inc. (“DaVita” or collectively “Defendants” or the “Company”), for discrimination on the basis of gender, pregnancy status and caregiver status, in that Plaintiff’s pregnancy and status as a mother directly led to pretextual disciplinary actions and her eventual termination, in violation of, the New York City Human Rights Law, N.Y.C. Admin. Code § 8- 107(1)(a) (“NYCHRL”), and the New York State Human Rights Law, N.Y. Exec. Law § 296(1)(“NYSHRL”), and for interfering with her anticipated pregnancy leave in violation of the Family Medical Leave Act, 29 U.S.C. §2601(b)(4) (“FMLA”)

**PARTIES**

1. Plaintiff is a 40-year-old woman and mother to a three-year-old and six-month old infant.
2. Plaintiff is a former, eligible employee of Defendants as that term is defined in the FMLA, 29 U.S.C. § 2611(2)(4) (“FMLA”), the New York State Human Rights Law (N.Y. Exec. Law § 292[6]) and is entitled to the remedies of said statutes for purposes of the claims brought in this Complaint.

3. Plaintiff worked for DaVita in DaVita's facilities, located in New York, New York.
4. DaVita is a nationally known corporation that provides dialysis treatment to patients.
5. DaVita's World Headquarters is located at 2000 16<sup>th</sup> Street, Denver, Colorado 80202.

### **JURISDICTION AND VENUE**

6. This Court has original jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1343.
7. This Court has supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. §1367.
8. Venue is proper in the Southern District of New York pursuant to 29 U.S.C. § 1391(b)(2) as it is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.

### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

9. On November 16, 2020, Plaintiff filed a timely Charge of Discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC") alleging claims under Title VII and the Pregnancy Discrimination Act.
10. Once the EEOC issues a Notice of Right to Sue, Plaintiff will seek to amend this Complaint to include allegations under Title VII and the Pregnancy Discrimination Act.

### **FACTUAL ALLEGATIONS**

11. Plaintiff has worked for DaVita since October 12, 2015 as a clinical dietician on a team that treats and counsels dialysis patients.

12. In this role, DaVita moved Plaintiff around between a variety of clinics in New York City run by DaVita, including its South Bronx clinic, Waters Place clinic, Haven Dialysis clinic and Melrose clinic.

13. Plaintiff was a faithful employee to DaVita for almost five years, and her commitment and dedication have been recognized by her managers, even garnering her a valued Service Excellence Award awarded by her managers.

14. On March 23, 2017, Plaintiff gave birth to her first child, and then took maternity leave for six months, pursuant to the Family Medical Leave Act, returning to work in October 2017.

15. Upon her return to work in September 2017, DaVita reassigned Plaintiff to the evening shift, 6:00-10:00p.m., even though she had been removed from evening shift duties prior to her maternity leave.

16. In September 2017, upon learning of her reassignment to the evening shift, Plaintiff expressed her dissatisfaction with the schedule change to her then-boss, Facility Administrator Rishi Lilly, and the Regional Operations Director, Marin Blitzer, explaining that she had a six-month-old baby at home. Lilly and Blitzer responded that the clinic's needs were inflexible and that once the Company found another solution, she could be taken off evening shifts.

17. In the meantime, however, Plaintiff was forced to balance her parental duties with working the evening shift, which she did for the ensuing approximately eight months.

18. In or around April 2018, Defendants moved Plaintiff off of the evening shift and back to her regular schedule.

19. Plaintiff continued to work for DaVita and received positive evaluations and feedback from her managers. For example, in her 2018 review, Plaintiff's manager, Facility

Administrator Rakesh Ramsaywack, wrote: “Anna [Meister] is a team player, and participates in things for Melrose even when she is offsite”; “Anna takes initiative to do fun activities for the patients”; and “Anna is doing her part in Supporting [*sic*], explaining and instructing patients and patient’s family (significant other, care partner, etc.) regarding the nutritional modifications needed to achieve optimum health status.”

20. Following this review, Plaintiff was promoted to “Registered Dietician II” and received an accompanying salary increase.

21. In January 2019, DaVita altered Plaintiff’s schedule again and split her work weeks between three different clinics: Melrose, Waters Place and Haven.

22. Eventually, DaVita transferred Plaintiff to work full-time at the Melrose clinic, working one day a week from home.

23. At the end of 2019, Plaintiff received another positive evaluation and was told that shemet expectations.

24. In late February 2020, Plaintiff discovered she was pregnant with her second child.

### ***The COVID-19 Pandemic***

25. In early March 2020, the COVID-19 pandemic broke out in New York.

26. As DaVita constitutes an “essential business,” the Company mandated that its employees continue working and seeing patients in person, except for physicians, who were allowed to work from home.

27. DaVita treated patients suffering from COVID-19.

28. DaVita employees working with patients in-person were at an increased risk of exposure to COVID-19.

29. On March 13, 2020, Plaintiff’s son’s daycare center notified her that they closed because of the pandemic.

30. Plaintiff immediately advised her supervisors of the closure of her son's daycare center and asked whether an accommodation could be made for her so that she could work from home.

31. Plaintiff's work as a dietician did not require any in-person interaction with patients, and she could perform all her job duties by way of DaVita's Telehealth system.

32. In fact, Plaintiff had previously worked remotely at DaVita without issue, and other employees at the same DaVita facility were permitted to work remotely.

33. Many dieticians in the New York metro-region also worked remotely during the COVID-19 pandemic since their patient interactions did not need to be done in person.

34. It is industry practice for companies specializing in dialysis treatment and/or other healthcare organizations to allow their dieticians to work remotely and counsel patients via Telehealth. This is because the great majority of a dialysis dietician's work can be done over video-conference and/or on a computer, including counseling patients, writing monthly notes on all patients, annual assessment notes, reviewing patient outcomes and communicating with doctors through secure messaging.

35. DaVita allowed other employees to work remotely during the pandemic, including nephrologists and physicians who worked via Telehealth.

36. Indeed, DaVita even required some of Plaintiff's duties – such as communicating with doctors at other facilities – to be done via video-conference because of the pandemic.

37. Defendants nonetheless denied Plaintiff's request to work from home, claiming that they were not equipped for her to counsel patients by Telehealth and telling her that she would have to continue coming to the physical workplace.

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