

RECENT CASE SERVES AS A REMINDER THAT DOMESTIC VIOLENCE VICTIM STATUS IS A PROTECTED CATEGORY IN NEW YORK

Labor & Employment Alert
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The New York State Attorney General recently announced a settlement agreement with the Bon-Ton Stores, Inc., after an employee of a Bon-Ton store complained that her employer had discriminated against her because she is a victim of domestic violence. The employee's complaint arose on October 9, 2015, when the employee reported to work at a Bon-Ton store in Williamsville, New York, and told the store manager that her estranged husband had threatened to kill her. Bon-Ton sent the employee home and, several days later, told her not to return to work until she received a protective order against her husband. After receiving the employee's complaint, the Attorney General's Office initiated an investigation to determine whether Bon-Ton had violated the New York State Human Rights Law.

Under the New York State Human Rights Law, it is unlawful to discriminate against a domestic violence victim in hiring or firing, conditions of employment, job advancement, requests for use of leave time, or in retaliation for filing a complaint of discrimination. Further, domestic violence victims who need time off for medical or mental health care are protected under the disability and reasonable accommodation provisions of the New York Human Rights Law if the leave is due to a health condition that resulted from domestic violence. Also, the New York City Human Rights Law and the Westchester Human Rights Law prohibit employers from firing or discriminating against a person because the individual is or is perceived to be a victim of domestic violence, sex offenses, or stalking. These local laws also require employers to make reasonable accommodations to actual or perceived victims of domestic violence, sex offenses, or stalking, as long as such accommodations do not cause undue hardship for the employer.

Bon-Ton agreed to a settlement with the attorney general. As part of its settlement, Bon-Ton will:

- Revise its Random Threat Response Policy, which applies to any threat received by an employee and communicated to Bon-Ton, to indicate that discrimination on the basis of domestic violence victim status is prohibited within the workplace, and that a domestic violence victim is not required to provide a protective order in order to continue working;

Attorneys

Joseph Braccio
Ryan Everhart
Andrew Freedman
Peter Godfrey
John Godwin
Karl Kristoff
Elizabeth McPhail
Jeffrey Swiatek

Practices & Industries

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- Provide educational materials and training to all New York employees discussing the legal protections provided to victims of domestic violence;
- Make a \$5,000 contribution to the Erie County Sheriff's Department's Domestic Violence Unit; and
- Ensure that the affected employee and others seeking to invoke the protections afforded by the Random Threat Response Policy will not be subject to retaliation, harassment, or other adverse treatment as a result of her or his complaint of discrimination.

The Bon-Ton case is an important reminder of the protections extended to New York employees who are victims of domestic violence. Covered employers should ensure that their supervisory employees are familiar with the legal protections accorded to domestic violence victims, and that managers know how to respond to issues involving employees who are victims of domestic violence.

Please contact any one of our labor and employment attorneys should you have questions about this alert or if you would like to schedule workplace trainings concerning workplace protections accorded to victims of domestic violence.