

**HERLIFE**  
ASK THE  
EXPERT

WRITTEN BY  
GIOVANNA A. D'ORAZIO,  
ESQ., PARTNER,  
D'ORAZIO PETERSON LLP



Giovanna A. D'Orazio is a partner along with her husband Scott Peterson in the Saratoga Springs-based litigation law firm D'Orazio Peterson LLP. The firm's focus is employment law, civil rights and serious injury cases. With respect to women's issues in particular, they handle sex discrimination, sexual harassment and hostile work environment, pregnancy, equal pay and FMLA/maternity leave cases. Giovanna graduated from Albany Law School and, prior to joining D'Orazio Peterson in 2012, worked for a New York State appellate court and a large Albany law firm. Giovanna has been named to the Super Lawyers Rising Stars list for the last three years and the firm was recently named a Law Firm 500 fastest-growing law firm in the country. Giovanna focuses her practice on employment law and civil rights, with a particular interest in women's rights.



## Seeking Equality for Women in the Workplace

**Q: YOU HAVE A FOCUS ON WOMEN'S RIGHTS. WHAT DO YOU SAY TO PEOPLE WHO BELIEVE WOMEN ALREADY HAVE EQUAL RIGHTS?**

**A.** In the most literal sense, yes, there are laws that are meant to protect equal rights in the workplace. Title VII protects women from sexual harassment and sex and pregnancy discrimination.

The Equal Pay Act requires women to receive equal pay for equal work. But there is still work to be done and areas that can be strengthened. For example, the Equal Pay Act gives employers a lot of discretion with respect to how to pay their employees. So it is very easy to justify paying women unequally even if the true reason is discrimination.

There are also loopholes in the pregnancy discrimination laws. For example, women do not have a federal right to reasonable accommodations for pregnancy-related conditions unless the condition rises to the level of a disability. That means women are being fired for issues as simple as needing to carry a water bottle or not being able to lift something heavy. It is hard to say that women have equal access to employment if they can be fired for needing a reasonable accommodation during pregnancy.

Also contributing to inequality in the workplace is the frequency of disturbing sexual harassment. While there are laws ostensibly prohibiting sexual harassment, it still happens, especially in male-dominated professions such as law enforcement and manufacturing/factory jobs, and proving a hostile work environment in court is pretty difficult. The law is favorable to employers and puts a lot of the burden on the woman to complain, often putting her job in jeopardy.

**Q: WHAT SHOULD A WOMAN DO IF SHE IS BEING SEXUALLY HARASSED AT WORK?**

**A.** The law rewards those who complain, so even though you may feel that your job is at stake or you are uncomfortable rocking the boat, it is important to complain about harassment. If you have an employee handbook, you should consult it for any complaint procedures and follow them to the best of your ability. Particularly larger companies or public employers should have Human Resources departments and procedures for making complaints of harassment. We also encourage women to make these complaints in writing or memorialize a meeting in an email or some other writing. If, worst case scenario, you are forced to resign because of the harassment or are fired in retaliation for making a complaint, you will at least have proof that you complained. Of course, every situation is different, and if someone is in physical danger or has been assaulted, then it may be appropriate to contact law enforcement or to leave the workplace without following complaint procedures to the letter.

**Q: WHEN SHOULD A FEMALE EMPLOYEE CONTACT AN ATTORNEY?**

**A.** Employment law is complicated; it's changing every day and requires an experienced employment attorney to determine whether the law has been violated. It is impossible to list all of the scenarios that should trigger a call to an attorney but they include: losing out on promotions in favor of less-qualified individuals outside of your protected class; being sexually harassed or assaulted; learning that you are earning less money than male employees performing equal work; and being fired or suffering some other adverse employment action soon after engaging in protected activity such as making complaints, taking or asking for leave, asking for an accommodation of a disability or announcing a pregnancy.

An employee who believes she has been the victim of discrimination or retaliation should contact an attorney as soon as possible because there are strict time deadlines at play. We are always happy to speak to employees and do not charge for an initial consultation. ■

*\*Nothing in this piece should be construed or relied on as legal advice or as creating an attorney-client relationship. Representation happens after a fact-specific analysis of your particular case and entry into a formal retainer agreement.*