

# New kid in town targeting employers: the ACLU

In the past, plaintiffs' lawyers, state regulators and federal agencies such as the U.S. Department of Labor and the EEOC constituted a formidable triumvirate of legal foes aligned against employers, eager to sue on behalf of aggrieved workers. Now add another: The mighty American Civil Liberties Union.

The nonprofit, famed for fielding a skillful cadre of dogged litigators, has just entered the employment law fray by filing a class-action lawsuit against AT&T. The suit accuses the telecom giant of systemically using its no-fault attendance policy to discriminate against pregnant employees.

It is the first lawsuit of its kind. And the ACLU's entry into the employment law realm means employers and their attorneys face a new class-action threat.

The ACLU initially sued on behalf of two AT&T Mobility employees—one from Indiana, the other a New Yorker—who became pregnant and were subsequently fired when they accumulated too many absenteeism points under the company's no-fault attendance policy.

In May the lawsuit was expanded to cover all similarly situated women who work or worked for AT&T nationwide and were affected by the company's no-fault attendance policy while pregnant.

Under AT&T's no-fault policy some absences weren't penalized—jury duty and short-term disability, for example. But it was silent on pregnancy.

The lawsuit alleges violations of the Pregnancy Discrimination Act. It claims women were assessed demerit points for arriving late due to common pregnancy problems like morning sickness and delays at their doctor's office or for leaving early because of other common pregnancy problems like backaches and fatigue.

**Final note:** Nonprofit organizations are taking a more active role in bringing discrimination lawsuits against employers. *Examples:* the Southern Poverty Law Center, which has won several suits; and the new #TimesUp legal defense fund, which has begun financing sexual harassment lawsuits on behalf of low-wage women.