


BMF Co-Owner Sues Agency for Allegedly Demoting Her After Learning She Was Pregnant

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By Patrick Coffee

February 21, 2019

An executive vice president and would-be head of sales for experiential agency BMF sued her employer this week, alleging its leadership violated several employment laws by demoting her and cutting her salary after learning that she was three months pregnant.

In the lawsuit, filed in the U.S. District Court for the Southern District of New York, Ashley Berg claims she was promoted to lead sales for the independent agency—which works with such brands as Uber, Amazon Fashion, L’Oréal and Revlon—in November 2018, approximately one year after BMF informally acquired LFB Media Group, a PR firm Berg founded. (The two agencies had collaborated on client projects for some time, and news of the acquisition was announced last March.)

When Berg began in the new position, she was one month pregnant but did not tell management until January, when the suit alleges agency principals “abruptly stripped her of the promotion she had earned.”

BMF denied any wrongdoing through a spokesperson.

“Ms. Berg has in no way been damaged, and her allegations are without any basis in fact,” read a statement the spokesperson attributed to chief operating officer Eric Brunman, one of four partners named as defendants in the suit. “We vehemently deny any allegation that BMF’s business decisions at issue were in any way illegal or discriminatory, and intend to defend this matter and let the facts show the truth.”

According to the lawsuit, Brunman, upon learning of Berg’s pregnancy, said “we knew this was coming” and revoked her promotion two business days later, telling her that contributing sales person would be a “better role for you now because you are pregnant.” The suit states that this and other circumstances show the demotion, which came with a 35 percent salary reduction, occurred in response to the fact that Berg would take maternity leave.

Agency merger

The filing states that Berg joined BMF as evp in October 2017 following the LFB acquisition. The suit claims managing partner Ed Starr, who's also named as a defendant along with Brunman and founding partners Brian Feit and Bruce Starr, told Berg she was "at the top of the list" for "risk" of becoming pregnant, according to an internal analysis of female employees tied to a proposed maternity leave policy. She then allegedly told him that she "had no plans to become pregnant."

However, the suit claims fellow employees started to believe Berg was expecting when she began "wearing loose-fitting clothes" and declined to consume alcohol at the company party the following year.

Feit and Bruce Starr told Berg the decision to revoke her promotion—the suit calls the timing "extraordinarily suspicious"—had been "in the works" before she confirmed her pregnancy, assuring her she had done nothing wrong, according to the lawsuit.

The suit claims Brunman then told Berg "he did not think that she was qualified to run a sales team" while acknowledging "that he was not familiar with [Berg's] employment history."

"There's a clear timeline here of them learning she was pregnant and taking the promotion away," said Douglas Wigdor, founder of Wigdor LLP, the law firm representing Berg which has previously represented employees of Deutsche Bank and Goldman Sachs in pregnancy discrimination cases.

Wigdor told Adweek his firm has supporting documents, including texts and emails, that confirm Berg's promotion and subsequent demotion to the sales role. Wigdor added that while Berg is a co-owner of the agency, "she doesn't have a stake that would be able to have any meaningful way" of providing leverage in such a situation.

Suit alleges human rights and labor law violations

On Feb. 1, Wigdor sent a letter to the agency principals stating that their decision "constituted unlawful gender and pregnancy discrimination." They responded by suspending Berg's access to company email before the law firm warned them against such actions, according to the suit, which also states they subsequently held multiple client meetings without Berg's knowledge and proceeded to "[remove her] completely from correspondence and involvement regarding" client Amazon Fashion.

The filing claims these actions violated New York State and city human rights and labor laws by discriminating against Berg because she was pregnant. In addition to the pay cut, the suit states, BMF violated Berg's commission

agreement and owes her more than \$60,000 in sales commissions in accordance with her contract.

“We are absolutely surprised and dismayed by this astounding turn of events,” read Brunman’s statement, which described Berg as “a longstanding personal friend of ours and our families for more than a decade.”

The statement continued: “When we invited her to join us in business in 2016, she joined our company with an ownership stake. As a co-owner of the BMF business, [Berg] shares in responsibility with all of us to our workforce, and we take that responsibility very seriously in our 15-year history of being an inclusive, diverse and equal-opportunity employer. With a staff made up of a majority of women, we have always been and continue to be deeply committed to providing an environment of professional respect, personal safety, and opportunity for advancement to all.”

BMF did not directly address any of the specific claims in Berg’s lawsuit. The agency’s spokesperson said there would be no further comment. The company has not yet filed a counterclaim, and it is unclear whether it has retained legal counsel.

“She’s still going to work,” Wigdor said of Berg. “It’s not an easy situation for her, but she’s done nothing wrong so she’s not going to quit. She filed suit as a current employee looking to hold them accountable for what they’ve done.”