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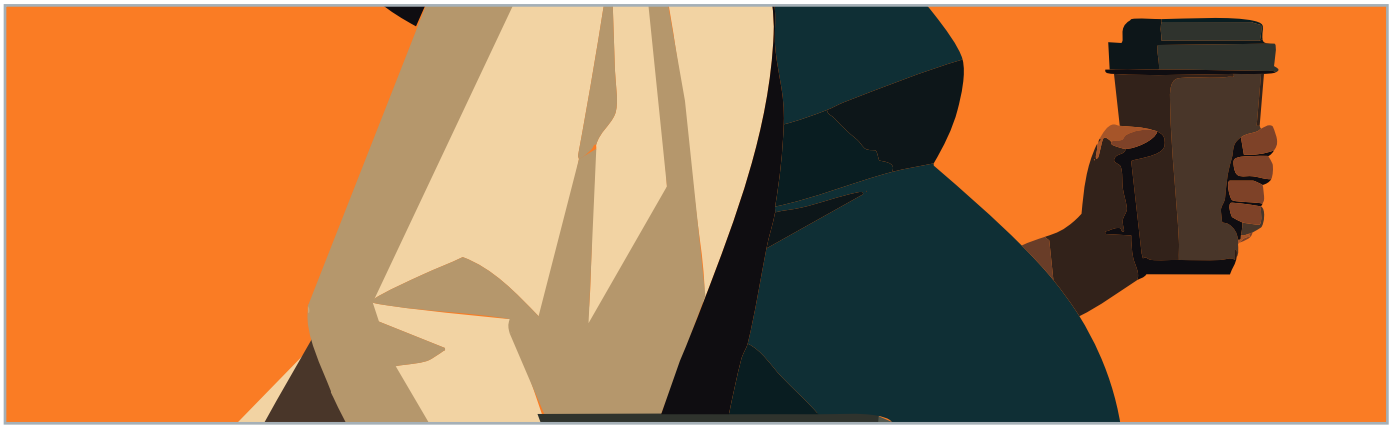
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City Solicitor, Providence, Rhode Island

LETTER FROM THE PRESIDENT

STRONGER TOGETHER:

The Power of Colleagues Supporting Each Other

In the hustle of professional life, deadlines and deliverables often take center stage. But behind every project completed and every milestone reached is a network of people – colleagues – who, when they support one another, become one of the most valuable assets a workplace can offer.

Support among professional colleagues goes far beyond the occasional helping hand or friendly chat over coffee. It's the quiet encouragement that turns self-doubt into confidence. It's the willingness to listen, to step in when someone is overwhelmed, and to celebrate others' successes as if they were your own. In a world that often glorifies individual achievement, we forget that collaboration and mutual support are what drive long-term success.

Consider the moments when a colleague offers to review your work before a big presentation, or when a team member notices you're off your game and checks in. These aren't just acts of kindness – they're acts of leadership. They create an environment where people feel safe, valued, and motivated to do their best work.

Support also fosters resilience. When challenges arise – and they always do – knowing that your team has your back can make all the difference. A culture of support helps transform failure into a learning opportunity rather than a source of shame. It builds trust, and trust builds teams that don't just work together, but grow together.

There's no one way to support a colleague. It might mean advocating for them in meetings, sharing credit, mentoring, or even just being a sounding board. What matters is the intention: choosing to lift others as we climb.

Let's normalize asking for help and offering it freely. Let's lead with empathy and show that professionalism and compassion are not mutually exclusive. Because at the end of the day, success tastes better when it's shared.

In supporting each other, we don't just become better professionals – we become better people.

IMLA fosters numerous opportunities for local government attorneys to participate as part of a mutually supportive professional community. One of those involves attendance at the highly anticipated annual conference each year. This year's conference will be held from October 17-21, 2025 in New Orleans, LA. Attendance at IMLA's annual conference provides the opportunity to learn from colleagues from throughout North America. It will also be a fabulous setting for folks to socialize with colleagues and friends. I hope to see you there!

On a personal note, I'll be passing the gavel at this year's conference to our incoming IMLA President, Susana Alcala Wood. It has been an incredible honor to serve as IMLA's President during the past year. I owe an immense debt of gratitude to so many people I've met through IMLA – colleagues who have helped me do a better job in my role as a city attorney and folks who have become true friends.

My fellow members of the IMLA board of directors include a collection of individuals who are immensely accomplished attorneys and committed public servants. More importantly, I have found them to be a group of kind and thoughtful people. I thank all of them for their contributions to, and support of, IMLA. Of course, the true stars of IMLA are the dedicated and talented staff. Amanda Karras, Jenny Ruhe, Caroline Storer, Erich Eiselt, Deanna Shahnami, Trina Shropshire-Paschal, Avery Morris, Carolina Moore, Christine Dodd, Sean Cooley, and Chuck Thompson form an amazing team who, collectively, help make IMLA the successful organization that it is.

To all IMLA Members, I hope that you have had an enjoyable summer and I look forward to seeing many of you at this year's Annual Conference in New Orleans!

JEFFREY DANA
City Solicitor,
Providence,
Rhode Island



AMANDA KARRAS

IMLA Executive Director, Rockville, Maryland

LETTER FROM THE EXECUTIVE EDITOR

FINDING BALANCE:

OPPORTUNITIES AND CHALLENGES

This past month, our eyes turned to the District of Columbia as the federal government sought to reduce crime by assuming control of the D.C.'s police force, placing federal law enforcement in the city, and deploying the National Guard. Although Congress enacted the District of Columbia Home Rule Act in 1973, which allows D.C. to maintain a form of local self-governance, D.C. has a special relationship with the federal government, which allows the President more latitude than he would enjoy in other jurisdictions.

The Act allows the President to assume emergency control of the police if the President determines "that special conditions of an emergency nature exist which require the use of the Metropolitan Police force for Federal purposes." Such a presidential takeover is limited to 30 days or until the end of the emergency, whichever comes first. D.C. sued the President to enjoin the takeover of the police, arguing the President and Attorney General Bondi have exceeded their authority under the Home Rule Act and have acted contrary to law in violation of the APA. That action is still pending as of this writing. And while the Home Rule Act creates unique challenges for D.C., the President also mentioned other cities when he made the announcement about the police takeover in Washington, including Chicago, Baltimore, Oakland, Los Angeles, and New York City. As of this writing, the President announced he plans to deploy the National Guard to Chicago, though it remains to be seen whether the President will employ similar actions in other communities.

The deployment of National Guard troops and federal law enforcement officers to help reduce crime in a city is a different legal matter than the takeover of D.C.'s police force. One of the efforts underway in Washington, with the influx of federal troops and law enforcement, is clearing homeless encampments. According to some reports, more than 48 encampments have been cleared in just a few weeks. D.C.'s Mayor has emphasized that there is indoor shelter space available for individuals experiencing homelessness, though it is unclear if people have moved indoors or moved to a new part of the city to create new encampments.

The decision to bring in federal troops and the National Guard to respond to public safety challenges—including encampments of unhoused individuals—raises fundamental questions about governance: Who should bear responsibility for public safety, and what happens when that responsibility shifts away from the local level?

At IMLA, we have long emphasized the importance of local autonomy. Local governments are closest to the people, best positioned to understand their communities' unique challenges. They are often tasked with balancing urgent public safety concerns with the rights of their residents. The recent developments in D.C. highlight what our members across the country already know: public safety is about much more than policing. It increasingly involves addressing homelessness, addiction, mental health, and social services—all of which demand nuanced, community-specific solutions.

Federal involvement in homelessness policy is not new, but it has intensified in recent months. For example, in addition to the actions taking place in D.C., President Trump issued an Executive Order on July 24, 2025, entitled "Ending Crime and Disorder on America's Streets," (the "Homelessness EO"). The Homelessness EO seeks to move away from a housing first model to one focused on civil commitment of individuals with mental illness or those who pose a risk to themselves or the public. It also directs several agencies to set up discretionary grants for States and local governments that have policies and practices in place, including those enforcing prohibitions against urban camping and open illegal drug use.

These actions create both opportunities and challenges for local governments. Federal resources can help communities, but they come with strings attached, compliance requirements, and potential litigation risks. Local governments must carefully navigate the balance between accepting federal assistance and retaining the flexibility needed to address their community's needs.

That balance was at the heart of *Grants Pass v. Johnson*, the Supreme Court homeless encampment case decided last June. IMLA was proud to advocate for

local governments in that case, filing an amicus brief that underscored the need for localities to retain authority over how best to address homelessness in their jurisdictions, including the ability to clear encampments. The Court's decision reaffirmed that these difficult policy choices belong to local communities—not to the federal judiciary. While no ruling eliminates the challenges communities face, *Grants Pass* made clear that local governments have the constitutional space to craft solutions. As Justice Gorsuch, who authored the opinion, explained:

> Instead of encouraging "productive dialogue" and "experimentation" through our democratic institutions, courts have frozen in place their own "formulas" by "fiat." Id., at 534, 537. Issued by federal courts removed from realities on the ground, those rules have produced confusion. And they have interfered with "essential considerations of federalism," taking from the people and their elected leaders difficult questions traditionally "thought to be the[ir] province."

Whether or not clearing encampments and requiring civil commitment of homeless individuals is good policy remains to be seen, and each community may seek to address homelessness in different and nuanced ways. The Homeless EO is incentivizing those policies through discretionary grants, which localities may choose to apply for. Incentives are one thing, but taking the homeless policy decisions away from D.C.'s elected officials and forcing the clearing of encampments within the District would seem to offer some of the same problems that we saw in *Grants Pass* when the federal judiciary had prevented localities from clearing encampments in the Ninth Circuit. IMLA maintains that local elected leaders are in the best position to come up with solutions to the difficult problem of homelessness in their communities.

These developments remind us why IMLA exists: to equip local government lawyers with the tools they need to navigate evolving legal landscapes, assert local authority, and serve their communities effectively. Through our conferences, webinars, working groups, and other resources, we provide education on public safety, homelessness, federal grant compliance, and intergovernmental relations. And through our advocacy, we continue to speak collectively for local governments when the stakes are highest.

As we look ahead to our upcoming Conference in New Orleans, these themes will be front and center. From sessions on homelessness to panels on public safety, immigration, federal funding, and constitutional law, we will explore the most pressing challenges facing our members. I encourage you to join us, connect with colleagues, and share your own experiences.

Local government lawyers stand on the frontlines of some of the most complex and consequential issues of our time. Whether in Washington, D.C., Grants Pass, Oregon, or your own community, the questions of public safety, homelessness, and local autonomy are deeply intertwined. At IMLA, we are here to support you as you address them.

Warm regards,
Amanda Karras
Executive Director, IMLA



THE PREGNANT WORKERS ACT



June 2025 marked the second anniversary of the enactment of the Pregnant Workers Fairness Act ("PWFA" or the "Act"). And with that milestone, it is quickly becoming apparent that this Act is not quite as simple to maneuver through as many of us hoped. If you have been proceeding under the assumption that this Act mirrors the Americans with Disabilities Act ("ADA") or that it will be intuitive to comply with it, think again. Now, with the benefit of the regulations that went into place last summer and enough time to experience some real-life scenarios, I am convinced that employers need to pay attention to this Act. In addition, employers (and their counsel) should be getting some basic training to avoid several pitfalls that are sure to cause mischief as we see more of these claims work their way through the court system.

Contributed by Pam Howland

FIVE TIPS FOR AVOIDING CLAIMS AND LAWSUITS.



But first, let's talk a little bit about what this Act is and why it might cause some confusion. Essentially the PWFA went into place in June 2023 with the sole goal being to ensure that employees who suffer limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, are granted accommodations. In other words, this is not an anti-discrimination law. Instead, it is somewhat unique in that its focus is on accommodation. Imagine a pregnant employee who becomes unable to perform essential functions of her job because of a temporary lifting restriction related to her pregnancy. Prior to the enactment of the PWFA, an employer may have had more leeway in terminating that employee. Not so under the PWFA, which is intended to prevent, among other things, situations where pregnant employees lose their jobs because of temporary conditions related to pregnancy.

The PWFA is also unique as it is intended to overlap and run in tandem with several other laws. For example, Title VII, which prohibits discrimination based on numerous protected classes, including sex, also provides protections against discrimination for pregnant women. Now, if a pregnant employee is denied an accommodation and terminated, instead, she might have protections under both the PWFA and Title VII. Likewise, if a pregnant employee needs an accommodation because her pregnancy exacerbates a prior disability, she may be protected by both the ADA and the PWFA.

The broad scope of the PWFA warrants a little time and attention, and if you take one thing away from this article, hopefully, it is an understanding that the PWFA is very broad. In fact, in some ways, the name of the Act is misleading, as the PWFA does not just protect pregnant women. Recall that the Act applies to employees seeking accommodations arising out of pregnancy, childbirth, or related medical conditions. That is some broad language, and the phrase "related medical conditions" certainly should have your attention. What is encompassed by these broad categories, and what does the Act mean by its reference to "related conditions"? We aren't entirely sure yet, but we know that the list of possible conditions is long. Some of the medical conditions that likely would trigger protection are:

- Nausea or vomiting; edema of the legs, ankles, feet, or fingers.
- Frequent urination; incontinence; loss of balance; vision changes; varicose veins.
- Changes in hormone levels, sciatica, carpal tunnel syndrome, chronic migraines, and dehydration.
- Maternal cardiometabolic disease, gestational diabetes, preeclampsia, hyperemesis gravidarum, and anemia.
- High blood pressure, infection, anxiety, depression, or psychosis during or after pregnancy.
- Aggravation of existing medical conditions by pregnancy or childbirth.

Similarly, possible accommodations contemplated by the Act are many and varied. Under the PWFA, the following accommodations are likely considered reasonable ones:

- Additional, longer, or more flexible breaks to drink, eat, rest, or use the restroom.
- Changing equipment: devices, workstations, uniforms, safety equipment.
- Changing a work schedule: shorter hours, later start time.
- Time off (paid or unpaid) for appointments with



The broad scope of the PWFA warrants a little time and attention, and if you take one thing away from this article, hopefully, it is an understanding that the PWFA is very broad..

health care providers, including appointments related to, and recovery from childbirth or related medical conditions.
- Light duty or help with lifting or other manual labor.
- Temporary reassignment or reassignment of essential function, if an employee can do it again "in the near future," and if not, an undue hardship.

These medical conditions and accommodations may not be surprising. However, the PWFA applies to many others that might catch you by surprise. What about an accommodation for an employee to attend counseling sessions for post-partum depression? A pregnant employee who seeks protection against exposure to secondhand smoke? A pregnant employee who seeks more snack breaks to manage existing diabetes? A pregnant employee who seeks the ability to have water at her workstation, even if not usually permitted? An employee who seeks accommodations to attend IVF appointments or who seeks an accommodation related to a complication from birth control (*e.g.*, IUD)? How about issues related to menstruation? All these situations are likely covered by the PWFA, as well. Again, don't be fooled by the name – this Act is not limited to accommodations for pregnant women.

With that overview in mind, I would like to share my top five list, i.e., the top five issues that could create risk and liability for unsuspecting employers who are not devoting adequate time and attention to learning key concepts within this Act and what the Act requires.

1 Know How the PWFA Differs From the ADA.

In my practice, I spend a fair amount of time working through the ADA, which, by all accounts, is not the easiest statute to maneuver through. That's why, when I first heard about the PWFA, I was not too alarmed – I just figured that the same concepts that apply to accommodations under the ADA would apply to the PWFA. Not true! As it turns out, there are some significant differences between the mechanics of how an ADA accommodation is analyzed and how PWFA accommodations are analyzed under the Act.

First, the PWFA makes it clear that there are some situations where an employer should not require an employee to provide information from a healthcare provider. One such instance is when an employee seeks a basic accommodation due to pregnancy. According to the PWFA, an employer should not seek health care provider information to confirm that the employee is, in fact, pregnant. In addition, certain accommodations are considered so basic that an employer should not seek documentation related to them. This includes requests for: 1) Modifications to uniform or dress code; 2) Use of a closer parking space; 3) Minor modifications to workplace/workstation; 4) Providing PPE; 5) Permitting use of workstation closer to the bathroom; 6) Additional bathroom breaks; and 7) Permitting eating or drinking when not usually allowed.

This is one example of how the PWFA differs from the ADA, i.e., the extent to which a request by the employer for healthcare provider information related to an accommodation is typically allowed.

Another difference between the ADA and the PWFA lies in the language of the PWFA which lays out certain accommodations that are so basic, employers are encouraged to grant them. The PWFA indicates that these accommodation requests will not be deemed to constitute an undue hardship. The ADA has no such list. However, under the PWFA, these accommodation requests should be granted:

1. To carry or keep water near and drink it, as needed.
2. To take additional restroom breaks, as needed.
3. To sit in jobs that typically require standing and to stand in jobs that typically require sitting, as needed.
4. To take breaks to eat and drink, as needed.

2 The PWFA May Require Employers to Excuse Essential Functions.

For those of you who know and understand the ADA, you are familiar with the principle that, under the ADA, an employer does not have to excuse the essential functions of the position. For example, if a painter's job requires them to stand on scaffolding, then, under the ADA, the employer does not have to grant an accommodation that would excuse the employee from having to stand on the scaffolding. Not true under the PWFA. Instead, the PWFA provides that the employer may, in some situations, be required to excuse essential functions. This is required when:

- The inability to perform an essential function is temporary.
- The essential function could be performed in the near future. and
- The inability to perform the essential function can be reasonably accommodated without undue hardship.

Go back to the painter example. If the painter is pregnant and needs a pregnancy-related accommodation to not use scaffolding for several months, the employer may be required to accommodate her inability to use the scaffolding if it is a large painting company that has four other painters who are available to assist by performing the jobs on the scaffolding.

3 The PWFA May Require Employers to Excuse Performance Quotas.

Likewise, under the PWFA, an employee's temporary inability to achieve performance quotas due to pregnancy, childbirth, or related conditions may require accommodation. This differs from the ADA, which does not require an employer to excuse performance quotas. This may require an employer who typically penalizes an employee for failing to achieve quotas to avoid doing so when the employee experiences lower productivity, focus, availability, or contributions if the lower production is due to a reasonable accommodation under the PWFA.

Imagine a customer service representative who must contact twenty customers in a given day. If that representative is experiencing nausea/morning sickness related to pregnancy and is only able to work part-time, then the employer may need to accommodate her inability to hit the quota.

4 The PWFA Contemplates Interim Accommodations that Should be Granted Immediately.

Those of you who are familiar with the ADA are probably comfortable with the fact that analyzing ADA accommodations and completing the ADA interactive process can take quite a while. After all, the employer typically seeks health care provider input, which, in and of itself, can take several weeks, if not months, to obtain.

The PWFA takes a different approach. As noted above, it contemplates situations where the employer is not entitled to any healthcare provider information. Additionally, it requires employers, in some situations, to grant interim, or emergency/temporary, accommodations – the philosophy being that, in some situations, it is unreasonable to make an employee wait and to possibly place their health or the health of a pregnancy at issue.

One example would be if an employee asks for an accommodation on Friday, has to work on Sunday, and won't get an answer on their requested accommodation until Monday. The PWFA suggests that the employer needs to temporarily grant an interim accommodation until a final decision can be made.

Don't forget – just like with the ADA, any time you are granting an accommodation (including a temporary accommodation like the ones we are discussing here), you would be well-served to make sure there is adequate documentation. When it comes to temporary accommodations, you should put documentation in place ensuring the employee understands this is not necessarily a permanent accommodation that will continue indefinitely.

5 Don't Count on Prevailing on an Undue Hardship Argument.

Just like with the ADA, there are some situations where an employer does not need to provide an accommodation because it will constitute an undue hardship. In a nutshell, undue hardship means that the accommodation will cause significant difficulty or expense. What does that mean exactly, and how will an employer know if they can meet the undue hardship threshold? Great question.

The undue hardship analysis, like all issues under the ADA and PWFA, is done on a case-by-case basis. It will differ from employer to employer and hinge on the employer's size and the resources available. A small employer may have an easier time showing that excusing a pregnant employee from an essential function may cause undue hardship for the company. On the other hand, a large public employer will have a more difficult time showing this.

Notably, one thing we have seen in the ADA context and which we will likely see in the PWFA context, as well, is that courts will reject an argument that an accommodation is an undue hardship simply because it would negatively impact the morale of other employees. For example, if allowing a pregnant employee who is confined to bed rest the ability to work from home will frustrate the employee's co-workers (who would also like to work from home), that alone is not an adequate basis to assert an undue hardship exception.

Cost alone typically will not get employers there, either. After all, it is expected under both the ADA and the PWFA that accommodation will likely cost something for the employer to implement. However, substantial costs may get an employer in the ballpark (depending on the facts).

So, there you have it: the PWFA is a broad statute requiring somewhat of a learning curve. Be aware it exists, be aware of the features that set it apart from your typical accommodation practice, and keep this list of key takeaways in mind:

1. Obvious conditions related to current, past, or intended pregnancy (or related conditions) must be accommodated.
2. If it is easy to accommodate, employers should do it.
3. Employers must act quickly. Expedience and interim accommodations are required.
4. Employers must be careful about asking for documentation.
5. Employers should be mindful of intersections with the ADA, Title VII, and the PUMP Act.
6. If job applicants are covered, would they know how to request an accommodation?
7. Forcing leave if another accommodation exists can violate the PWFA.
8. Watch for updates as the PWFA gets interpreted.
9. State and local laws could provide further protections.
10. Employers should read and be mindful of the guidance provided by the Equal Employment Opportunity Commission (EEOC), including the addendum it issued with PWFA regulations last year.
11. Employers should update their policies on lactation, how to ask for an accommodation, and their intent to comply with the PWFA overall.
12. Retaliation is prohibited under the PWFA and all related laws.
13. Confidentiality is required. ML

Pam Howland has been practicing law for twenty-five years, focusing on employment law defense, including claims and lawsuits arising under the ADA. Her firm counsels employers on complying with the law and defends them against claims and lawsuits. They also perform virtual courtroom-ready workplace investigations for employers located all over the country.

In 2023, Pam formed Law for Leaders, a training program aimed at helping employers stay out of court. Law for Leaders focuses on the key issues that land employers in trouble. The Law for Leaders training platform tracks the federal employment law statutes and provides recorded and live content aimed at helping leaders learn the foundational employment law concepts that every leader needs to know to stay out of court. It is available for HR professionals, attorneys, supervisors, and leaders at all levels (located anywhere in the country) seeking to avoid making easily avoidable mistakes that could result in employer liability.

In 2025, Pam co-authored *Law for Leaders: the Roadmap Every Leader Needs to Follow to Avoid Workplace Claims and Lawsuits*, available on Amazon. Her firm kicked off its weekly podcast at the same time: *Ground Rules – Employment Law over Your Coffee Break*. Pam's goal is to help leaders across the country stay out of court and welcomes ideas and topics that would help further that goal. She can be found on LinkedIn at linkedin.com/in/pamsimmonshowland.



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