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Santander Biased Against Working Mothers, Suit Says

By **Alexis Shanes**

Law360 (February 3, 2021, 4:10 PM EST) -- A former Santander vice president sued the banking giant in New York federal court Wednesday, claiming the company slashed her pay and eventually fired her after she sought permission to work from home to handle high-risk pregnancies.

Erin McKenna's complaint, which invoked the Family and Medical Leave Act and New York state and city discrimination laws, said the company had no problem asking employees to work remotely during the COVID-19 pandemic.

But when she asked for a similar arrangement to manage her complicated pregnancies, Santander shaved \$65,000 off her bonuses and gave her clients to a male colleague, she claimed.

"Big banks perceive working mothers as lacking commitment, distracted by family matters or otherwise too preoccupied to focus on their work," McKenna's suit alleged. "Santander is no exception."

Santander hired McKenna in 2018, when she did not have children, and she "excelled," outperforming the men on her team, according to the complaint. She said her fortunes at Santander changed when she told a supervisor she needed to work from home for a few months in 2019 to comply with doctor's orders.

Santander at first acquiesced, but two months later, it cut McKenna's bonus from the previous year by \$30,000 and told her she would be fired if she didn't show up at the office.

McKenna went to work and kept her job, but she was hospitalized seven times and gave birth a month prematurely, according to the complaint.

When she returned to work after a three-month maternity leave, McKenna found Santander had taken away most of her sales accounts and given them to a male co-worker, forcing her to "start over," she alleged. And it again cut her bonus, shorting her \$35,000, she claimed.

In early fall of 2020, after working from home for roughly seven months because of the pandemic, McKenna learned she was pregnant again. She said she notified her supervisor about her high-risk pregnancy and asked to continue working from home.

Two weeks later, McKenna was fired as part of what Santander called a "reduction in force," she said. But she alleged the company's reasoning was a mask for discrimination.

Santander kept a man who didn't generate as much in profits as McKenna and was less qualified, she said. Just before her firing, it hired another man into her group who wasn't licensed to do the job, according to the complaint.

"Santander's alleged discriminatory attitude toward working mothers not only cost Ms. McKenna her job, but also placed her health and pregnancy in serious danger," Valdi Licul, a Wigdor LLP partner who represents McKenna, said in a statement Wednesday.

"This is yet another disturbing example of recessionary discrimination, where companies attempt to use the pandemic as a pretext to unlawfully target pregnant women and working mothers for layoffs," he added. "We intend to hold Santander fully accountable for this egregious injustice."

McKenna alleged retaliation under the Family and Medical Leave Act as well as discrimination, retaliation, aiding and abetting under New York state and New York City law.

The complaint said McKenna would file a discrimination charge with the Equal Employment Opportunity Commission alleging violations under Title VII of the Civil Rights Act of 1964. She plans to amend the complaint to add Title VII claims when she receives a right-to-sue letter from the agency, it said.

The suit names Santander Investment Securities Inc. and Santander Holdings USA Inc., as well as McKenna's former supervisor.

"Santander denies any wrongdoing and looks forward to the opportunity to defend itself," a spokesperson for the bank said in a Wednesday statement. "We have a long-standing commitment to supporting women in the workforce."

McKenna is represented by Valdi Licul and Sarah Arena of Wigdor LLP.

Counsel information for Santander was not immediately available.

The case is McKenna v. Santander Investment Securities Inc. et al., case number 1:21-cv-00941, in the U.S. District Court for the Southern District of New York.

--Editing by Robert Rudinger.

Update: This article was updated to include comment from Santander.