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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION

AMANDA GERKEN,	)	
	)	
Plaintiff,	)	No. C 6:12cv2080 EJM
	)	
vs.	)	ORDER
	)	
ABCM CORP.,	)	
	)	
Defendant.	)	

This matter is before the court on defendant's resisted Motion for Summary Judgment, filed December 13, 2013. The briefing concluded on January 16, 2014. Denied.

Plaintiff Amanda Gerken brings this action seeking damages from her employer defendant ABCM Corporation, claiming that she was discriminated against because she was pregnant, in violation of the Iowa Civil Rights Act (ICRA"), Iowa Code Chapter 216, as well as retaliated against in violation of the Family Medical Leave Act ("FMLA"), 29 U.S.C. § 2614. An essential element of both causes of action is whether plaintiff was returned to "an equivalent position."

Defendant seeks summary judgment, asserting that plaintiff was returned to an equivalent position, and if not, then that they instead had a legitimate non-discriminatory reason for her termination which was not pretextual. Fed. R. Civ. P. 56(c) provides that summary judgment shall be entered if the "pleadings, depositions,

answers to interrogatories, and admissions on file together with the affidavits, if any, show that there is not a genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."

Considering the elements of the prima facie case, and viewing the facts in the best light for the non-moving party, it appears that there is a disputed question of material fact whether plaintiff was returned to an equivalent position, and the reasons for that. "Summary judgment should seldom be granted in discrimination cases," Bassett v. City of Minneapolis, 211 F.3d 1097, 1099 (8<sup>th</sup> Cir. 2000).

It is therefore

ORDERED

Defendant's Motion for Summary Judgment denied.

February 18, 2014.

  
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Edward J. McManus, Judge  
UNITED STATES DISTRICT COURT