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Bloomberg Discrimination-Suit Ruling Renews Work-Life Debate

By **ELISSA GOOTMAN**

A few pages from the end of a 64-page legal decision dismissing claims that **Bloomberg L.P.** had engaged in a pattern of discrimination against new mothers and mothers-to-be, Judge **Loretta A. Preska** set aside the legalese to offer some blunt remarks on a topic dear to the hearts of many working parents (and those who choose not to be).

“The law does not mandate ‘work-life balance,’ ” she wrote, in a decision issued on Wednesday. “In a company like Bloomberg, which explicitly makes all-out dedication its expectation, making a decision that preferences family over work comes with consequences.”

With those words and others like them, including a quotation from the former General Electric chief executive Jack Welch — “there are work-life choices, and you make them, and they have consequences” — Judge Preska, of United States District Court in Manhattan, rekindled a debate about how far companies should go in accommodating mothers in the workplace.

Some civil rights groups criticized the ruling as a throwback that reinforced outdated attitudes toward women and corporate culture. But some in business and law said the judge had simply offered a plain-spoken dose of reality.

The New York chapter of the National Organization for Women quickly made clear its dismay, summing up its reaction on Twitter: “Manhattan judge rules if a woman chooses motherhood, she chooses to be discriminated against.” Sonia Ossorio, the executive director of the group, said in an interview that Judge Preska’s words were “really going to inflame” people.

“I don’t know if it’s too harsh to call the judge ignorant,” she said, “but she certainly has a fundamental misunderstanding of how discrimination plays out for working mothers.”

“She hardly hides her contempt for women with kids who have ambition and want top-paying jobs,” Ms. Ossorio said. “If you read her comments, she says that basically if a workplace culture is work 24/7, then they have a right to have that type of culture.”

Donna Lieberman, executive director of the New York Civil Liberties Union, said the judge’s comments seemed out of step with the times. “It feels like a throwback to the era when women

were forced to choose between work and family — an era that I had hoped we had graduated from,” she said.

Kathryn S. Wylde, president of the Partnership for New York City, a business coalition that includes Bloomberg L.P., said the judge’s remarks and those of Mr. Welch rang true.

“I am afraid I come down with Jack Welch,” she wrote in an e-mail. “I am among the first generation of ‘liberated’ women professionals who took for granted we would have to sacrifice personal time and family life to achieve our professional goals. Younger women tend to assume ‘equality in the workplace,’ along with the notion that they can and should ‘have it all.’ I don’t think that is possible for men or women, and certainly not in the competitive environment of New York City.”

Debra L. Raskin, a partner at Vladeck, Waldman, Elias & Engelhard, a law firm that represents employees in workplace matters, said that on the basic question of whether the law mandates work-life balance, the judge had it right.

“Much to my chagrin, there is no duty, unfortunately, to accommodate people’s children or child-care needs other than unpaid leave under the **F.M.L.A.**,” Ms. Raskin said, referring to the Family Medical Leave Act. “When the feminist revolution comes, that will be the world, but unfortunately, for right now, it isn’t.”

“This is not France, with two years of maternity leave and the right to go back to your job,” she added. “It’s American individualism. If an employer says I want you to work 90 hours a week, as long as they comply with overtime requirements, it’s perfectly kosher.”

Judge Preska’s ruling came in response to a class-action lawsuit filed in 2007 by the federal Equal Employment Opportunity Commission, charging that Bloomberg L.P., the financial and media services giant founded by Mayor **Michael R. Bloomberg**, had engaged in a “pattern or practice of discrimination” against pregnant women and those who had returned from maternity leave. The accusations relate to incidents that took place after Mr. Bloomberg, the majority shareholder of the company, left his day-to-day role there.

The judge found that “even if there were several isolated instances of individual discrimination,” the commission had insufficient evidence to prove that discrimination was the company’s “standard operating procedure.”

Gillian Thomas, a trial lawyer at the Equal Employment Opportunity Commission, said Thursday that the discrimination claims brought by individual Bloomberg employees “remain alive,” adding that “as the judge noted, many of them experienced discrimination, even if she didn’t think it happened on a classwide basis.” Asked if the commission would appeal the judge’s ruling, Ms. Thomas said, “We are assessing our options.”

Judge Preska declined to comment, as did a spokesman for Bloomberg L.P.