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JANETTA MARRERO *v.* HOFFMAN OF SIMSBURY, INC.
(AC 45471)

Bright, C. J., and Elgo and Seeley, Js.

Syllabus

The plaintiff sought to recover damages for the alleged wrongful termination of her employment by the defendant, which she claimed was the result of pregnancy discrimination and gender discrimination in violation of the Connecticut Fair Employment Practices Act (§ 46a-51 et seq.). The plaintiff began working for the defendant in 2010 as a service advisor. Although she was a good salesperson, all of her supervisors had documented ongoing concerns regarding her attitude and conduct, and she had received six separate written warnings relating to incidents in which she demonstrated a bad attitude, bad conduct or insubordination. One such warning, which she received in April, 2018, indicated that her employment would be terminated if she continued to behave in an insubordinate manner. In October, 2018, the plaintiff's supervisor, B, called her into his office to discuss his concerns regarding her sales numbers and customer service. The plaintiff responded by criticizing B's management of their department. She then asked B if he had raised his concerns because she was pregnant or because she had not told him that she was pregnant. When, in response, B asked the plaintiff if she was pregnant, she replied, "That's none of your business." B then told the plaintiff to leave his office before the conversation became hostile. She refused, remaining there for approximately one hour until another employee intervened. The next day, the plaintiff was dismissed, purportedly for reasons of insubordination and creating a hostile work environment. At the time, she was six weeks pregnant. In January, 2019, the plaintiff initiated a complaint with the Commission on Human Rights and Opportunities (CHRO), which later issued a release of jurisdiction letter, following which the plaintiff commenced this action. In February, 2019, the defendant promoted another employee, who also was female, to replace the plaintiff. At that time, B did not believe that this employee was pregnant; however, the record was otherwise silent as to whether the employee was pregnant, was planning to become pregnant or was of childbearing age. The defendant filed a motion for summary judgment, claiming that the plaintiff had failed to make a prima facie case for pregnancy or gender discrimination, that her employment was terminated for a legitimate, nondiscriminatory reason, and that she failed to show that such reason was a pretext for discrimination. The trial court granted the motion and rendered judgment thereon, from which the plaintiff appealed to this court. *Held*:

1. The trial court properly granted the defendant's motion for summary judgment with respect to the plaintiff's claim of gender discrimination: the plaintiff failed to demonstrate a genuine issue of material fact as to the inference of nondiscrimination arising from the defendant's promotion of the plaintiff's replacement from the same protected class as the plaintiff, despite her claim that the promotion was in response to the defendant learning of her CHRO complaint, because there was no evidence in the record indicating when the defendant had received notice of such complaint; moreover, the only evidence the plaintiff offered to overcome the inference of nondiscrimination, namely, that B regularly went out for drinks with his male colleagues but did not invite her, was insufficient to raise a genuine issue of material fact of an intent to discriminate; accordingly, the plaintiff failed to present evidence sufficient to establish a prima facie case of gender discrimination, and, consequently, this court did not need to address whether she presented sufficient evidence to raise a genuine issue of material fact that the defendant's stated reason for her dismissal was a pretext for gender discrimination.
2. The trial court properly granted the defendant's motion for summary judgment with respect to the plaintiff's claim of pregnancy discrimination: the plaintiff's claim that the trial court erred in crediting B's state-

ment that he did not know that the plaintiff was pregnant when he terminated her employment over her own testimony that she told B that she was pregnant during their confrontation the day before her dismissal was unavailing because the record reflected that the plaintiff testified that she never told B, her supervisor, or any other employee that she was pregnant and, instead, when asked about the matter, told B that it was none of his business; moreover, even if this court assumed that the plaintiff had presented evidence sufficient to establish a prima facie case of pregnancy discrimination, she failed to present evidence sufficient to raise a genuine issue of material fact that the defendant's nondiscriminatory reason for her dismissal was pretextual, as the plaintiff did not seriously dispute that the defendant had submitted evidence of a legitimate, nondiscriminatory reason for her dismissal in support of its motion for summary judgment, including her performance reviews and warnings that she had received regarding, inter alia, her insubordination, conduct and attitude, nor did she dispute that several of her supervisors had issues with her attitude throughout her tenure with the defendant, even prior to her pregnancy; furthermore, contrary to the plaintiff's assertions, the temporal proximity between B allegedly learning of her pregnancy and her dismissal was insufficient, on its own, to support a claim of pretext; additionally, evidence that the plaintiff was a profitable producer and that a male coworker, C, whom the plaintiff claimed was similarly situated, was not dismissed from his position, was insufficient to demonstrate that the defendant's reason for terminating her employment was pretextual because evidence that the plaintiff performed some job duties well did not contradict the substantial evidence of her other job deficiencies and the plaintiff and C had very different discipline histories.

Argued May 11—officially released July 25, 2023

Procedural History

Action to recover damages for alleged employment discrimination, and for other relief, brought to the Superior Court in the judicial district of Hartford, where the court, *Sicilian, J.*, granted the defendant's motion for summary judgment and rendered judgment thereon, from which the plaintiff appealed to this court. *Affirmed.*

James V. Sabatini, for the appellant (plaintiff).

Carolyn A. Trotta, with whom was *David R. Golder*, for the appellee (defendant).

Opinion

BRIGHT, C. J. In this employment discrimination action, the plaintiff, Janetta Marrero, claims on appeal that the trial court improperly rendered summary judgment in favor of the defendant, Hoffman of Simsbury, Inc., her former employer, on her complaint sounding in pregnancy discrimination and gender discrimination in violation of the Connecticut Fair Employment Practices Act, General Statutes § 46a-51 et seq. We affirm the judgment of the trial court.

The record reveals the following facts, viewed in the light most favorable to the plaintiff, and procedural history. The plaintiff, who is a woman, began working for the defendant in September, 2010, as a service advisor at Hoffman Honda, one of the defendant's car dealerships. Sometime in 2014, the plaintiff was transferred to Hoffman Ford, another dealership owned by the defendant. In or around May, 2015, the plaintiff was transferred back to Hoffman Honda. Although the plaintiff had strong sales numbers and was a good salesperson in many respects, throughout her tenure with the defendant she demonstrated what colleagues and customers described as a "poor attitude" and rudeness. Each of the plaintiff's four supervisors documented ongoing concerns regarding her attitude and conduct. The plaintiff received six separate written warnings over the course of her employment with the defendant, each documenting an incident or incidents in which the plaintiff demonstrated a bad attitude, bad conduct, or insubordination. For example, in 2017, the plaintiff was suspended for three days for "[s]ubstandard work," "[c]onduct," "[a]ttitude," and "[c]arelessness" after her supervisor, Jim Berube, received complaints from two customers regarding the plaintiff's rude conduct while interacting with them. On April 27, 2018, Berube came into the dealership and walked into the plaintiff's office to discuss a Yelp review. He noticed the plaintiff was writing an email to him and asked her what was the subject of the email. The plaintiff informed Berube that the email was "for a goodwill request." Berube then noticed a waiting customer and asked the plaintiff whether the customer was being helped. In response, the plaintiff told Berube that he "should not tell her how to do her job" and should not look at her computer as it could display personal information. As a result, the plaintiff received a written warning informing her that she faced termination of her employment if she continued to behave in such an insubordinate manner.

On October 18, 2018, Berube called the plaintiff into his office to discuss two work-related issues—her sales numbers and her customer service. The plaintiff responded by telling Berube that her sales numbers and customer service ratings were the highest of the defendant's service advisors. The plaintiff then asked Berube, "[W]hat is this really about?" She then told him,

"You have nothing on me." The plaintiff also criticized Berube's management of the department, telling him that he did not "have things in place . . . ." Berube responded by telling the plaintiff, "This is getting too hostile." The plaintiff then asked Berube if he brought her into his office and raised these issues because she was pregnant or because she had not informed Berube that she was pregnant. In response, Berube asked the plaintiff if she was pregnant, to which she replied, "That's none of your business." Berube then told the plaintiff that she had to leave the office before the conversation became hostile. The plaintiff refused to leave Berube's office for approximately one hour until another employee, Meri Robert, spoke with her and agreed to be a witness to the fact that the plaintiff did not quit her job. The defendant fired the plaintiff the next day for insubordination and for creating a hostile work environment. At that time, the plaintiff was six weeks pregnant.

Approximately four months later, on February 18, 2019, the defendant promoted another employee, who also was female, to replace the plaintiff. At the time that he promoted the plaintiff's replacement, Berube did not believe that she was pregnant. Other than Berube's belief, the record is silent as to whether the plaintiff's replacement actually was pregnant, planning to become pregnant, or of childbearing age when she was promoted.

On or about January 7, 2019, the plaintiff initiated a complaint with the Commission on Human Rights and Opportunities (CHRO), which issued a release of jurisdiction letter on March 27, 2020. The plaintiff then commenced an action in the Superior Court. In her complaint, the plaintiff asserted one count each of pregnancy discrimination and gender discrimination. On August 27, 2020, the defendant filed its answer and special defenses to the plaintiff's complaint. On November 17, 2021, the defendant filed a motion for summary judgment, attaching to its accompanying memorandum of law various documents in support thereof, including portions of the deposition testimony of the plaintiff; Berube; Daniel Covalli, one of the plaintiff's coworkers; and Dwight Dery, the plaintiff's first supervisor. The documents also consisted of several performance reviews and written warnings the plaintiff received during her tenure with the defendant and affidavits from Robert and Berube.

The defendant argued that, on the basis of the plaintiff's deposition testimony and other evidence, there was no genuine issue of material fact that it was entitled to judgment as a matter of law on the plaintiff's discrimination claims because (1) the plaintiff failed to make a prima facie case for pregnancy or gender discrimination,[1] (2) her employment was terminated for a legitimate, nondiscriminatory reason—her bad attitude and

insubordination—and (3) the plaintiff failed to show that the defendant's reason for terminating her employment was a pretext for discrimination.

On February 2, 2022, the plaintiff filed her objection to the defendant's motion for summary judgment, including several exhibits, and argued that she had established a prima facie case of discrimination and that genuine issues of material fact existed as to whether the plaintiff's dismissal was motivated by discrimination. On February 15, 2022, the defendant filed its reply.

The court heard argument on the defendant's motion for summary judgment on March 14, 2022, and it issued a memorandum of decision granting the defendant's motion on April 14, 2022. At the outset of its decision, the court set forth the standard of review governing summary judgment motions and properly determined that the plaintiff's claims fell under the burden shifting framework adapted from the United States Supreme Court's decision in *McDonnell Douglas Corp.* v. *Green*, 411 U.S. 792, 802–804, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973) (*McDonnell Douglas*), pursuant to which "the employee must first make a prima facie case of discrimination. . . . The employer may then rebut the prima facie case by stating a legitimate, nondiscriminatory justification for the employment decision in question. . . . The employee then must demonstrate that the reason proffered by the employer is merely a pretext and that the decision actually was motivated by illegal discriminatory bias." (Internal quotation marks omitted.) *Rossova* v. *Charter Communications, LLC*, 211 Conn. App. 676, 684–85, 273 A.3d 697 (2022). "In order for the employee to first make a prima facie case of discrimination, the plaintiff must show: (1) the plaintiff is a member of a protected class; (2) the plaintiff was qualified for the position; (3) the plaintiff suffered an adverse employment action; and (4) the adverse employment action occurred under circumstances that give rise to an inference of discrimination." (Internal quotation marks omitted.) *Feliciano* v. *Autozone, Inc.*, 316 Conn. 65, 73, 111 A.3d 453 (2015).

With regard to the plaintiff's gender discrimination claim, the court concluded that, although the plaintiff established the first three elements of a prima facie case, she had failed to show that her dismissal occurred under circumstances that gave rise to an inference of discrimination. The court reasoned that, because Berube hired a female to replace the plaintiff, an inference against discrimination was appropriate. See *Fleming* v. *MaxMara USA, Inc.*, 371 Fed. Appx. 115, 116–17 (2d Cir. 2010) (affirming summary judgment in favor of defendant employer in racial discrimination case because no inference of discrimination could be drawn when Black female plaintiff was replaced by Black female); *Rodriguez* v. *New York City Health & Hospitals Corp.*, United States District Court, Docket No. 14

Civ. 4960 (BMC) (E.D.N.Y. September 8, 2015) ("[i]t is extremely difficult, if not practically impossible to establish discrimination where, as here, plaintiff was passed over so an employer can hire another member of plaintiff's same protected class" (internal quotation marks omitted)).[2] In addition, the court was unpersuaded by the plaintiff's argument that evidence that Berube and other male service advisors routinely went out for drinks after work on Fridays, and that the plaintiff was never invited, was sufficient to create an inference of discrimination. See *Meyer* v. *McDonald*, 241 F. Supp. 3d 379, 391 (E.D.N.Y. 2017) ("[t]he inference [against discrimination] is not dispositive, but plaintiff must overcome it in order to establish an inference of discrimination"), aff'd sub nom. *Meyer* v. *Shulkin*, 722 Fed. Appx. 26 (2d Cir. 2018), cert. denied sub nom. *Meyer* v. *Wilkie*, U.S. , 138 S. Ct. 2583, 201 L. Ed. 2d 295 (2018).

The court further held that, "[e]ven if one were to assume that the plaintiff could satisfy the first prong of the *McDonnell Douglas* test, the defendant has offered substantial evidence of a legitimate, nondiscriminatory basis for her termination. The evidence demonstrates a history of concern about the plaintiff's attitude and interaction with her supervisor, her coworkers, and the defendant's customers. Concerns about attitude and insubordination are legitimate reasons for adverse employment actions." The court thereafter concluded that "the plaintiff's evidence falls significantly short of evidence that could support a rational finding that the defendant's legitimate, nondiscriminatory reason for the termination was a pretext for discrimination. The defendant acknowledges that the plaintiff's sales numbers were strong and that a vice president acknowledged as much. However, evidence that the plaintiff was a profitable producer does not contradict the substantial evidence of the plaintiff's history of poor attitude, confrontational personality, including with customers, and insubordination, nor does it render the defendant's reasons for terminating the plaintiff implausible. . . . The plaintiff's claim that a male colleague was not similarly disciplined is based only on her testimony that the colleague had a single confrontation with his supervisor. There is no evidence that the colleague had a similar history of complaints, coaching, and warnings about attitude and behavior. Finally, there is no evidence that the plaintiff was not promoted to manager because of her gender. The evidence demonstrates that neither the plaintiff nor any . . . male service advisor was promoted to the position of service manager, but instead the defendant filled the positions with external candidates. There is no evidence that the plaintiff was treated differently than similarly situated male colleagues." (Citation omitted.)

Similarly, the court determined that "[t]he record is, at best, unclear as to whether there is any evidence

that the plaintiff's supervisor was aware of the plaintiff's pregnancy." The court concluded that, "there is a dearth of evidence, other than the plaintiff's speculation, that her pregnancy had anything to do with her termination. As reflected above, even if the court were to assume that the plaintiff had established a prima facie case that her termination was based on her pregnancy, the defendant has demonstrated through substantial, unrebutted evidence that there was a nondiscriminatory reason for the plaintiff's termination and the plaintiff has failed to offer evidence that casts doubt on the plausibility of the defendant's reason or that would support a reasonable inference that the defendant's stated reason was a pretext masking a discriminatory purpose or intent." Accordingly, the court rendered summary judgment in favor of the defendant. This appeal followed. Additional facts will be set forth as necessary to our analysis of the plaintiff's claims.

On appeal, the plaintiff claims that the court erred in rendering summary judgment on her gender and pregnancy discrimination claims, arguing that she both established prima facie cases of pregnancy and gender discrimination and presented evidence sufficient to demonstrate the existence of a genuine issue of material fact as to whether the defendant's purported nondiscriminatory justification for her discharge was a pretext for unlawful discrimination.

The standard of review of a trial court's ruling on summary judgment is well established. "Practice Book § 17-49 provides that summary judgment shall be rendered forthwith if the pleadings, affidavits and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. In deciding a motion for summary judgment, the trial court must view the evidence in the light most favorable to the nonmoving party. . . . Our review of the trial court's decision to [deny] the defendant's motion for summary judgment is plenary. . . . On appeal, we must determine whether the legal conclusions reached by the trial court are legally and logically correct and whether they find support in the facts set out in the memorandum of decision of the trial court." (Internal quotation marks omitted.) *Miller* v. *Doe*, 214 Conn. App. 35, 44–45, 279 A.3d 286 (2022).

I

The plaintiff first claims, with respect to her gender discrimination allegations, that the court erred in concluding that she had failed to present sufficient evidence of an inference of discrimination and of pretext.[3] We are not persuaded.

As to evidence of an inference of discrimination necessary to set forth a prima facie case, the plaintiff argues that the court erred by giving "significant weight to the

evidence of the defendant hiring a nonpregnant female to replace the plaintiff." In support of her argument, the plaintiff relies on *Miles* v. *Dell, Inc.*, 429 F.3d 480, 488 (4th Cir. 2005), in which the United States Court of Appeals for the Fourth Circuit acknowledged that an employer "hir[ing] someone from within the plaintiff's protected class in order 'to disguise [an] act of discrimination toward the plaintiff' " is "[o]ne clear example" of a replacement within the plaintiff's protected class that does not give rise to an inference of nondiscrimination. Id. The plaintiff argues that, because Berube did not promote the plaintiff's replacement until February 18, 2019, more than one month after she had filed her CHRO complaint, "[r]ather than undermining the plaintiff's gender discrimination claim, Berube's [promotion] of a female replacement supports it." See, e.g., *Pride* v. *Summit Apartments*, Docket No. 5:09-CV-0861 (GTS/ATB), 2012 WL 2912937, *8 (N.D.N.Y. July 16, 2012) (if plaintiff's replacement "was hired only after [the plaintiff] filed a complaint against [the defendant] . . . it is possible that a rational fact finder could conclude that, rather than rebut the inference of discrimination, the hiring of the . . . employee was merely a cover-up of the prior discrimination" (emphasis omitted)). The problem with the plaintiff's argument is that there is nothing in the record indicating when the defendant received notice of the plaintiff's CHRO complaint.[4] Once the defendant submitted undisputed evidence of its promotion of the plaintiff's replacement from the same protected class as the plaintiff, the plaintiff had the burden to present evidence raising a genuine issue of material fact as to whether the promotion of her replacement was in response to the defendant learning of the plaintiff's CHRO complaint. See *U.S. Bank National Assn.* v. *Eichten*, 184 Conn. App. 727, 743, 196 A.3d 328 (2018) ("a party opposing summary judgment must substantiate its adverse claim by showing that there is a genuine issue of material fact together with the evidence disclosing the existence of such an issue" (internal quotation marks omitted)). By failing to present any evidence of when the defendant received notice of her CHRO complaint, the plaintiff has not demonstrated a genuine issue of material fact as to the inference of nondiscrimination arising from the defendant's promotion of a female to replace the plaintiff.

Furthermore, we agree with the trial court that the only evidence the plaintiff offered to overcome the inference of nondiscrimination—that Berube went out for drinks with his male colleagues but did not invite the plaintiff—was insufficient to raise a genuine issue of material fact of an intent to discriminate. See, e.g., *Dorfman* v. *Doar Communications, Inc.*, 314 Fed. Appx. 389, 390–91 (2d Cir. 2009) (plaintiff's exclusion from company event attended by younger employees did not create inference of discrimination); *Chapin* v. *Nationwide Mutual Ins. Co.*, United States District

Court, Docket No. 2:05-cv-734 (S.D. Ohio March 26, 2007) ("cronyism does not necessarily constitute illegal discrimination"). The plaintiff, accordingly, failed to raise a genuine issue of material fact as to the existence of circumstances surrounding her dismissal that gave rise to an inference of gender discrimination. Given our agreement with the trial court's conclusion that the plaintiff failed to present sufficient evidence to establish a prima facie case of discrimination, we need not address whether she presented sufficient evidence to raise a genuine issue of material fact that the defendant's stated reason for the termination of her employment was a pretext for gender discrimination.

II

The plaintiff next claims that the court improperly rendered summary judgment with respect to her pregnancy claim because it (1) incorrectly credited Berube's testimony over hers, (2) failed to find an inference of discrimination given that the plaintiff's replacement was not pregnant and, therefore, was not in her protected class, and (3) ignored or discounted substantial evidence of pretext. We are not persuaded.

We first address the plaintiff's argument that the court improperly credited Berube's statement in his affidavit that he did not know that the plaintiff was pregnant when he terminated her employment and failed to credit the plaintiff's testimony that she told Berube that she was pregnant during their confrontation the day before he terminated her employment. The plaintiff's argument misunderstands both the factual record and the court's analysis. The record reflects that the plaintiff never stated that she told Berube that she was pregnant. To the contrary, she testified at her deposition that, after she asked whether her treatment was due to her being pregnant and Berube asked if she was pregnant, the plaintiff told Berube that it was none of his business. The plaintiff further testified that she never told her supervisor or any fellow employee that she was pregnant.[5] On the basis of this record, the court concluded that the plaintiff's evidence that Berube knew of her pregnancy when he terminated her employment was, "at best, unclear . . . ." Significantly, the court did not conclude whether the plaintiff had made a prima facie case of pregnancy discrimination but, instead, concluded that, even if she had, the defendant had "demonstrated through substantial, unrebutted evidence that there was a nondiscriminatory reason for the plaintiff's termination" and the plaintiff had failed to present sufficient evidence to raise a genuine issue of material fact that the defendant's reason was a pretext for pregnancy discrimination. Thus, we review the court's conclusion as to pretext, assuming that the plaintiff had presented evidence sufficient to establish a prima facie case of pregnancy discrimination.[6]

The plaintiff does not seriously dispute that the defen-

dant submitted unrebutted evidence of a nondiscriminatory reason for the plaintiff's dismissal in support of its motion for summary judgment. In particular, the defendant produced five of the performance reviews the plaintiff received during her time employed by the defendant, each of which documented ongoing concerns her supervisors had regarding her attitude and conduct. In addition, the defendant submitted the six warnings the plaintiff received regarding, inter alia, insubordination, conduct, and attitude. Last, the defendant introduced the deposition testimonies of the plaintiff and Berube describing the October 18, 2018 incident. Such evidence clearly amounts to a legitimate, nondiscriminatory reason for the plaintiff's dismissal. See, e.g., *Matima* v. *Celli*, 228 F.3d 68, 79 (2d Cir. 2000) ("insubordination and conduct that disrupts the workplace are 'legitimate reasons for firing an employee' "); *Duffy* v. *State Farm Mutual Automobile Ins. Co.*, 927 F. Supp. 587, 594 (E.D.N.Y. 1996) (employee's unsatisfactory job performance and bad attitude constituted legitimate, nondiscriminatory reasons for termination of employment). Notably, the plaintiff does not dispute that several supervisors took issue with her attitude throughout her tenure with the defendant, well before her pregnancy, or that the October 18, 2018 incident occurred. In fact, she testified that, during the incident, she criticized Berube's management and refused to leave his office for about one hour even after being asked to do so.

Consequently, the question before us is whether the plaintiff introduced evidence sufficient to raise a genuine issue of material fact as to whether the defendant's stated reason was a pretext for unlawful discrimination. "To prove pretext, the plaintiff may show by a preponderance of the evidence that [the defendant's] reason is not worthy of belief or that more likely than not it is not a true reason or the only true reason for [the defendant's] decision to [terminate the plaintiff's employment] . . . . Of course, to defeat summary judgment . . . the plaintiff is not required to show that the employer's proffered reasons were false or played no role in the employment decision, but only that they were not the only reasons and that the prohibited factor was at least one of the motivating factors." (Citation omitted; internal quotation marks omitted.) *Taing* v. *CAMRAC, LLC*, 189 Conn. App. 23, 28–29, 206 A.3d 194 (2019). The plaintiff argues that a reasonable fact finder could conclude that the defendant's stated reason for terminating her employment was a pretext for pregnancy discrimination on the basis of (1) the temporal proximity between Berube learning of the plaintiff's pregnancy and her dismissal shortly thereafter, (2) the existence of a similarly situated comparator in Covalli, who the plaintiff contends was treated differently under the same circumstances, and (3) the fact that "a mere one week . . . prior to the termination decision, the defendant's vice president told [her] that she was doing

a great job."[7] We are not persuaded.

Although the plaintiff correctly observes that a close temporal proximity between Berube learning of her pregnancy and terminating her employment may give rise to an inference of discrimination, "[t]emporal proximity alone is insufficient to defeat summary judgment at the pretext stage." *Kwan* v. *Andalex Group, LLC*, 737 F.3d 834, 847 (2d Cir. 2013); see also *Fairchild* v. *All American Check Cashing, Inc.*, 815 F.3d 959, 968 (5th Cir. 2016) ("[a]lthough the temporal proximity between the employer learning of the plaintiff's pregnancy and her termination may support a plaintiff's claim of pretext, such evidence—without more—is insufficient"); *Govori* v. *Goat Fifty, LLC*, 519 Fed. Appx. 732, 734 (2d Cir. 2013) ("temporal proximity . . . does not by itself raise a genuine issue of pretext"). Further, as the trial court correctly noted, "[t]here is no evidence that [Covalli] had a similar history of complaints, coaching, and warnings about attitude and behavior." In order for comparator evidence to be probative it "must establish that the plaintiff and the individuals to whom she seeks to compare herself were similarly situated in all material respects . . . . [A]n employee offered for comparison will be deemed to be similarly situated in all material respects if (1) . . . the plaintiff and those [she] maintains were similarly situated were subject to the same workplace standards and (2) . . . the conduct for which the employer imposed discipline was of comparable seriousness." (Citations omitted; emphasis omitted; internal quotation marks omitted.) *Perez-Dickson* v. *Bridgeport*, 304 Conn. 483, 514, 43 A.3d 69 (2012). Because the plaintiff and Covalli had very different discipline histories, the fact that the plaintiff was dismissed and Covalli was not is insufficient to demonstrate that the defendant's reason for terminating the plaintiff's employment was pretextual. Last, as the court correctly stated, "evidence that the plaintiff was a profitable producer does not contradict the substantial evidence of the plaintiff's history of poor attitude, confrontational personality, including with customers, and insubordination, nor does it render the defendant's reasons for terminating the plaintiff implausible." Put another way, performing some job duties well is not evidence that termination of employment for other job deficiencies was a pretext for discrimination.

The undisputed evidence shows that the plaintiff received multiple warnings regarding her attitude, conduct, and insubordination and, in April, 2018, received notice that, upon another incident of insubordination, her employment could be terminated. The plaintiff does not dispute that, on October 18, 2018, she criticized Berube's management of his department and refused to leave his office for more than one hour. Consistent with the April, 2018 warning, the defendant terminated the plaintiff's employment. In sum, we agree with the trial court that "there is a dearth of evidence, other

than the plaintiff's speculation, that her pregnancy had anything to do with her termination."[8] Because the defendant presented uncontroverted evidence of a nondiscriminatory reason for its employment termination decision and the plaintiff failed to present sufficient evidence raising a genuine issue of material fact that that reason was pretextual, the court properly granted the defendant's motion for summary judgment.

The judgment is affirmed.

In this opinion the other judges concurred.

[1] The defendant argued, inter alia, that the plaintiff failed to establish a prima facie case of pregnancy discrimination because Berube did not know that the plaintiff was pregnant. As to gender discrimination, the defendant argued, inter alia, that the plaintiff could not establish a prima facie case because the defendant had replaced her with another female.

[2] "[I]t is well settled that '[w]e look to federal law for guidance on interpreting state employment discrimination law, and the analysis is the same under both.' " *Tomick* v. *United Parcel Service, Inc.*, 157 Conn. App. 312, 326, 115 A.3d 1143 (2015), aff'd, 324 Conn. 470, 153 A.3d 615 (2016).

[3] The plaintiff's principal appellate brief presents her pregnancy discrimination claim first. Because the trial court addressed the plaintiff's gender discrimination claim first, so too do we.

[4] We note that, on appeal, the defendant represents that it did not receive notice of the plaintiff's CHRO complaint until March 1, 2019, after Berube had hired the plaintiff's replacement.

[5] The plaintiff also testified that she told the spouse of one of the defendant's employees, Covalli, that she "might be" pregnant and she speculated that the spouse told Covalli, who told Berube prior to the confrontation on October 18, 2018. Covalli, as did Berube, stated under oath that he did not know the plaintiff was pregnant prior to her dismissal. Given that any conclusion that Covalli learned that the plaintiff was pregnant because the plaintiff told Covalli's wife that she might be pregnant and that Covalli then communicated to Berube that the plaintiff was pregnant is based on multiple layers of speculation, the trial court properly disregarded it as evidence that Berube knew of the plaintiff's pregnancy when he terminated her employment.

[6] Given our assumption that the plaintiff has met her burden of establishing a prima facie case, we need not address her argument that she was entitled to an inference of discrimination because her replacement was not pregnant when she was hired.

[7] The plaintiff also contends that the trial court did not apply the correct causation standard in evaluating her evidence. In advancing this argument, the plaintiff correctly states that the motivating factor test—pursuant to which a plaintiff need demonstrate only that the prohibited factor was at least one of the motivating factors in his or her dismissal rather than the but-for reason—is the correct causation standard. See *Wallace* v. *Caring Solutions, LLC*, 213 Conn. App. 605, 617, 278 A.3d 586 (2022). The plaintiff argues that, on the basis of the evidence she presented, "a jury could conclude [that the] plaintiff's pregnancy played a role in the defendant's decision to terminate [her employment]." We disagree that the court applied the wrong causation standard.

In determining whether the plaintiff had established a disputed issue of material fact as to whether the defendant's proffered nondiscriminatory reason for terminating her employment simply was a pretext for discrimination, the trial court quoted from this court's decision in *Rossova* v. *Charter Communications, LLC*, supra, 211 Conn. App. 690, and stated that "[t]he plaintiff must . . . 'persuade the trier of fact, by a preponderance of the evidence, that the defendant's justification for her dismissal is merely a pretext and that the decision actually *was motivated by* illegal discriminatory bias.' " (Emphasis added.) Thus, the court correctly applied the motivating factor test.

[8] The plaintiff argues that the court improperly required her to show evidence of "pretext plus." In particular, the plaintiff argues that the court required her to present additional independent evidence of discrimination rather than evidence sufficient for a jury to find pretext. We disagree.

On the basis of our review of the trial court's memorandum of decision, we conclude that the trial court simply required the plaintiff to meet the

requirements of the *McDonnell Douglas* burden shifting analysis. See *McDonnell Douglas Corp.* v. *Green*, supra, 411 U.S. 802–804. Moreover, as previously discussed in this opinion, the plaintiff failed to introduce evidence sufficient to demonstrate a genuine issue of material fact regarding whether the defendant's asserted reason for terminating her employment was a pretext for discrimination. Consequently, the plaintiff failed to present any evidence as to the falsity of the defendant's proffered explanation for her dismissal that would allow the trier of fact to "infer the ultimate fact of discrimination from the falsity of the employer's explanation." *Reeves* v. *Sanderson Plumbing Products, Inc.*, 530 U.S. 133, 147, 120 S. Ct. 2097, 147 L. Ed. 2d 105 (2000). We therefore reject the plaintiff's argument.