

STATE OF MICHIGAN
COURT OF APPEALS

BRENDA MILLER,

Plaintiff-Appellant,

v

MATRIX SYSTEM AUTOMOTIVE FINISHES,
INC.,

Defendant-Appellee.

UNPUBLISHED

May 30, 2006

No. 259226

Oakland Circuit Court

LC No. 2003-052196-NZ

Before: Schuette, P.J. and Bandstra and Cooper, JJ.

COOPER, J. (*concurring*).

I concur with the majority in result and agree with the analysis, with one objection. Where the majority suggests that plaintiff proceeded only on a theory of discriminatory replacement rather than on both that theory and a theory of disparate treatment, I would refer the majority to plaintiff's complaint in this matter. Plaintiff's complaint includes the following statements relevant here: "Had Plaintiff not become pregnant, she would not have been fired"; "Defendant . . . treated Plaintiff disparately . . . based on her sex/pregnancy"; "Defendant . . . treated Plaintiff differently from similarly situated employees"

I agree with the majority's analysis of the tests that apply to each claim, and with the finding that plaintiff has not met the requirements of either test.

/s/ Jessica R. Cooper