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# United States Supreme Court Decides *Young v. United Parcel Service, Inc.*

By Nicole M. Paterson / Mar 26, 2015

On March 25, 2015, the United States Supreme Court issued its highly anticipated decision in *Young v. United Parcel Services, Inc.*, 575 U.S. \_\_\_\_ (2015). Employers had hoped this decision would clarify whether employees with work related injuries were "similar in their ability or inability to work" for the purposes of determining the accommodation required for a pregnant employee under the Pregnancy Discrimination Act ("PDA"). The PDA requires employers to treat "women affected by pregnancy . . . the same for all employment-related purposes . . . as other persons not so affected but similar in their ability or inability to work." 42 USC § 2000e(k). However, despite a ruling from the Court, employers are left without a bright-line rule as to whether, and under what circumstances, employers that offer limited light duty to non-pregnant employees must offer the same light duty to pregnant employees.

In the 6-3 ruling, the Court vacated and remanded the decision of the U.S. Court of Appeals for the Fourth Circuit which found in favor of Young. Young, a pregnant driver for United Parcel Service, Inc. ("UPS"), requested that UPS accommodate her lifting restrictions by granting her a light duty job during her pregnancy. UPS maintained a policy that limited the award of light duty assignments to employees who: (1) suffered an on-the-job injury; (2) lost their Department of Transportation certification; or (3) suffered from a disability covered by the Americans with Disabilities Act. Citing that Young's pregnancy condition did not fall within one of the three categories, UPS denied Young's accommodation request and placed her on an extended leave of absence.

In rejecting the lower courts' ruling for summary judgment for Young, the Supreme Court concluded that a pregnant employee may establish an initial claim of discrimination under the PDA by proving: (1) she is/was pregnant; (2) she sought accommodation; (3) the employer did not accommodate her; and (4) the employer accommodated others with similar restrictions. The burden then shifts to the employer to demonstrate that its refusal to accommodate the pregnant employee was based upon "legitimate nondiscriminatory" reasons. In doing so, the Court was quick to note "that reason normally cannot consist simply of a claim that it is more expensive or less convenient to add pregnant women to the category of those . . . whom the employer accommodates."

The Court further concluded that an employee may assert that the employer's reasons are pretextual by "providing sufficient evidence that the employer's policies impose a significant burden on pregnant workers, and that the employer's "legitimate, nondiscriminatory" reasons are not sufficiently strong to justify the burden."

The Court noted the existence of the three categories of employees whom UPS accommodated through light duty assignments and asked "... why, when the employer accommodated so many, could it not accommodate pregnant women as well?" However, the Court stopped short of any determination that UPS' reasons for treating Young differently were pretextual. Rather, that is the question that now must be answered by the U.S. Court of Appeals for the Fourth Circuit, and, according to the Court, Young may now prove her case by establishing that UPS' policies created a "significant burden" for pregnant employees, and UPS' reasons for not accommodating pregnant employees were not "sufficiently strong."

While the ruling does not create a bright-line rule that employers must provide pregnant employees with the same light duty accommodations provided to other groups of temporarily disabled employees, it does provide insight into the burden that will be placed upon employers when justifying any differential treatment of pregnant employees. Accordingly, employers should judiciously review their light duty practices and policies to ensure that they can justify such practices through legitimate nondiscriminatory reasoning beyond the inconvenience or expense involved.

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