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U.S. Supreme Court To Hear Pregnancy Accommodation Case In Its Fall Term

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Must employers that provide work accommodations to non-pregnant employees with work limitations also provide work accommodations to pregnant employees who are similar in their ability or inability to work? That is a question that the U.S. Supreme Court justices have decided they will consider in their next term, agreeing to take up the case of *Young v. United Parcel Service, Inc.* The issue is whether the federal Pregnancy Discrimination Act, 42 U.S.C. §2000e(k) requires accommodations for pregnant workers such as "light duty" or temporary changes to duties such as lifting. Under the language of the Pregnancy Discrimination Act, "women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work." Lawyers for the plaintiff, who sought accommodations during her pregnancy, are asking the Supreme Court to overturn a ruling by the Fourth Circuit Court of Appeals that the employer was not required to provide the accommodations Young had requested.

In particular, Young had presented a note from her health care provider advising her to limit her lifting to 20 pounds or less, and Young contended that she could continue to do the work of her current position or an alternate light duty position. However, UPS indicated that light duty work was limited to those employees who had limitations due to on-the-job injuries, those with impairments who qualified for an accommodation under the Americans with Disabilities Act, and those employees who lose Department of Transportation certification for reasons such as diabetes, high blood pressure, sleep apnea or impairments in arms and legs. Young ended up taking an extended unpaid leave of absence, returning to work about two months after she gave birth.

After filing a Charge at the EEOC, Young brought a lawsuit claiming that UPS had violated the Pregnancy Discrimination Act by failing to provide her with the same accommodations that it provided to other employees who were similar to her in their ability to work. The District Court granted summary judgment to UPS, determining that the UPS actions were gender-neutral in terms of which categories of employees it allowed to work in alternate positions. The Fourth Circuit Court of Appeals affirmed, leading Young to seek review at the Supreme Court level. For more background on the issues raised by the parties, links to Young's petition and the employer's response can be found at SCOTUS blog here.

Although the Supreme Court's decision to hear the case likely will provide a meaningful framework for analyzing accommodation requests, it is not the end of the story. As we recently noted, the EEOC has just issued new guidance taking the position that employers should consider accommodations for pregnant employees under the Americans with Disabilities Act. And some states, notably Illinois, have their own ideas when it comes to requiring accommodations for pregnant workers. Stay tuned this fall to see which way

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the Supreme Court will view the case.