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Supreme Court Decision Gives New Life To Pregnancy Discrimination Act

On March 25, 2015, the U.S. Supreme Court issued a 6-3 decision in Young v. United Parcel Service, Inc., which recognizes that employers who fail to accommodate employees with pregnancy-related job restrictions may be held liable for pregnancy discrimination if they accommodate non-pregnant employees with similar restrictions. CLP first reported this case in August, 2014 when we announced that the Equal Employment Opportunity Commission (EEOC) had published guidance addressing employer obligations under the Pregnancy Discrimination Act (PDA) - despite the fact that the issue was pending before the United States Supreme Court. In addition to vacating the lower court's summary judgment decision for UPS and remanding the case back to the lower court, the Supreme Court unanimously rejected the position articulated in the EEOC's guidance.

At issue before the Supreme Court was whether Peggy Young was entitled to a light duty accommodation under the PDA even though UPS had what the lower courts referred to as a "pregnancy-blind" policy that only provided light duty to specific groups of people: those injured on the job, those eligible for an accommodation under the ADA, and those who had lost their commercial driver's license for a medical or legal reason. Because her request for light duty did not fall into one of these three categories, Ms. Young was denied an accommodation. UPS argued that it did not violate the PDA because its policy was pregnancy neutral. Ms. Young argued that UPS's policy was discriminatory, because it provided light duty to some workers with similar restrictions but not to her. Under the PDA, employers are required to treat pregnant employees the same as other employees who are "similar in their ability or inability to work …."

In a victory for Ms. Young, the Court held that she should have had the opportunity to prove that UPS, by refusing her an accommodation that it made available to other similarly restricted workers, engaged in pregnancy discrimination. Without adopting either parties' position on the best way to do this, the Court crafted a new approach, using the so-called McDonnell-Douglas test, (already used by courts in other discrimination cases), to establish a prima facie case of pregnancy discrimination under the PDA's "same treatment" language. Under this test, the plaintiff must show that she (a) belongs to a protected class, (b) sought an accommodation, (c) her employer did not accommodate her, and (d) that the employer accommodated others "similar in their ability or inability to work." The Court further stated that a plaintiff could defeat summary judgment by showing that their employer's policies "impose a significant burden on pregnant workers," by accommodating a large percentage of non-pregnant workers while failing to accommodate a large percentage of pregnant workers, and that the employer's justifications for the policies are not "sufficiently strong to justify the burden."

In addition to articulating this standard, the Court unanimously rejected the position articulated in the EEOC's guidance, finding that it could not "rely significantly on the EEOC's determination" in light of the guidance's timing and inconsistency with past positions. Employers should review their pregnancy related policies, light duty policies, and seek legal counsel to review decisions involving pregnancy-related accommodations. Contact your CL&P attorney if you have any questions.

Impasse Can Be Reached

The recent DLR case City of Boston and SEIU Local 888 (MUP-12-2332) presented the question whether the City had bargained to impasse about a transfer of bargaining unit work (crime scene lighting trucks) from the SEIU to Boston Police Detectives. The City gave the Union four weeks' notice of its proposed change, met with the Union twice, extended the deadline twice, offered other overtime to replace lost overtime, and offered to meet again. The Union spurred the counterproposal, simply insisted the work in question should remain in its unit, and did not seek further bargaining. Given these circumstances, the DLR found that the City was within its rights because it had negotiated to the point of impasse - a result we rarely get to report from DLR these days.

The hearing officer reached this issue after coming to the dubious conclusion that the City's economic motivation to have on-duty night detectives perform the work trumped its motivation to get the lighting truck to the scene of a major crime quicker by on-duty employees rather than waiting for an off-duty response. Regardless, it is reassuring to have the DLR recognize what those of us doing the bargaining know all too well: impasse does exist and it is quite often reached when the other party digs its heels in.

Welcome Spring!

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