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# JUDGES & THE COURTS

FACT SHEET

# Young v. United Parcel Service, Inc.

November 2014

*This term, the U.S. Supreme Court will decide whether the federal law protecting pregnant workers from discrimination means what it says. The Pregnancy Discrimination Act (PDA) requires employers to treat pregnant workers the same as they treat those who are "similar in ability or inability to work." At issue in Young v. United Parcel Service, Inc. is whether an employer who accommodates the medical needs of employees with non-pregnancy related disabilities and injuries (as is often required by virtue of the Americans with Disabilities Act, for example) must extend the same type of accommodations to pregnant workers with similar medical needs. If the Supreme Court rules against Peggy Young, it will lead to many pregnant workers being forced to choose between their jobs and the health of their pregnancies.*

The Supreme Court's decision in Young will be critical to women and their families. Too many employers still deny pregnant women basic accommodations when they need them to continue working, and some courts have ignored the clear language and intent of the PDA and allowed this to continue. As a result, pregnant women are pushed off the job at the moment they can least afford it.

## Peggy Young's Story

Peggy Young worked as a UPS driver in Landover, Maryland, delivering packages sent via air mail, which were typically fairly light. When she became pregnant, Young's medical provider instructed her to avoid lifting more than 20 pounds. Young told UPS she was willing to assume light duty or continue her regular duties, given that she actually rarely had to lift anything heavy. But UPS refused to allow her to do either; in fact, Young reports that her senior manager told her that she was "too much of a liability" and must go home until she was "no longer pregnant." While UPS routinely accommodated employees who needed light duty because of a disability or an on-the-job injury, as well as in other circumstances—such as when an employee lost his or her commercial driver's license because of a D.U.I. conviction—UPS denied Young's request for an accommodation and forced her onto unpaid leave, suspending her health insurance for the remainder of her pregnancy. Young sued UPS, but the trial court and the Fourth Circuit Court of Appeals held that the company's refusal to accommodate Young's medical needs arising out of pregnancy when it accommodated the medical needs of other workers did not constitute pregnancy discrimination under the PDA, because Peggy Young did not have a disability or an on-the-job injury and did not prove that UPS was motivated by animus toward pregnant women in denying her an accommodation.[1]

## The Pregnancy Discrimination Act Was Meant to Ensure Pregnant Workers Would No Longer Be Second-Class Citizens

More than thirty-five years ago, Congress passed the PDA to reverse the Supreme Court's 1976 decision in General


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Electric Co. v. Gilbert.[2] In Gilbert, the Court held that discrimination on the basis of pregnancy was not sex discrimination and that General Electric's disability policy, which provided employees with benefits for a broad range of sicknesses and accidents but excluded disabilities arising from pregnancy, did not violate the federal law prohibiting sex discrimination in employment.[3] The Court reasoned that pregnancy was not "comparable in all respects" to the covered conditions and that excluding pregnancy from the insurance plan did not indicate animus against women.[4]

Congress acted quickly to reject this analysis by passing the PDA in 1978. The PDA affirms that discrimination on the basis of pregnancy is unlawful discrimination on the basis of sex.[5] It also makes clear that women affected by pregnancy, childbirth, or related medical conditions must be treated as well as other employees "not so affected but similar in their ability or inability to work."[6] The PDA was intended to reject the Gilbert analysis and make clear that when an employer denies benefits to pregnant workers that it provides to non-pregnant workers with similar limitations, it engages in discrimination, and no further showing of discriminatory intent (i.e., "animus") is necessary.[7] The PDA thus requires an employer to accommodate pregnant workers when it accommodates workers with similar limitations arising from other circumstances. In holding otherwise, the Fourth Circuit gravely misread the plain language of the PDA and ignored Congress's intent.

## The Supreme Court's Decision in Young Will Be of Grave Importance for Women and Their Families

Many women work through their pregnancies without needing any changes on the job. However, some pregnant women find that particular job activities pose a challenge at some point during pregnancy. These women may have a medical need for temporary modifications of their job duties or workplace policies in order to continue to work safely and support their families. When pregnant women who have medical needs for accommodation are forced off the job, their families can suffer a devastating loss of income at the very moment financial needs are increasing.

Today's families cannot afford for women to be forced out of work during pregnancy. Mothers' earnings are crucial to most families' financial security and wellbeing – women make up nearly half the workforce, and are the primary breadwinners in 41 percent of families with children.[8] Yet, one recent survey estimated that a quarter of a million pregnant workers are denied their requests for reasonable workplace accommodations nationally every year.[9]

## A Broad Coalition Supports Peggy Young

Eleven friend-of-the-court briefs were filed in support of Peggy Young, demonstrating a broad coalition of support for accommodating pregnant workers. One hundred and twenty-three members of Congress joined a brief drafted by the National Women's Law Center and the law firm Jenner & Block, arguing that the plain language and legislative history of the PDA makes clear that the PDA does not permit an employer to deny pregnant workers light duty that it provides to workers similar in ability to work, when that decision is made without reference to a pregnant worker's actual ability to do the job, but is based simply on the fact that pregnancy is the source of the limitation. The Solicitor General of the United States made similar arguments, as did a bipartisan coalition of state and local legislators. Women's organizations, labor unions, legal scholars, and health care providers all submitted briefs in support of Peggy Young, as did a coalition of business groups led by the U.S. Women's Chamber of Commerce and a coalition of anti-abortion organizations.

## Even UPS Now Acknowledges That Accommodating Pregnant Workers Just Makes Sense

While UPS continues to argue that it has no legal obligation to accommodate pregnant workers and that it did not violate Peggy Young's legal rights, in its brief to the Supreme Court, UPS announced that beginning January 1, 2015, it would adopt a policy of providing accommodations for those pregnant workers who need them. UPS's decision to adopt the policy demonstrates that accommodating pregnant workers' medical needs just makes good business sense. Employers who provide accommodations can expect to reap benefits in the form of improved recruitment and retention of employees, higher levels of employee morale and loyalty, increased productivity, reduced absenteeism, and improvements in workplace safety.[10]

[1] *Young v. United Parcel Service, Inc.*, 707 F.3d 437, 450 (4th Cir. 2013).
[2] 429 U.S. 125 (1976).
[3] *Id.* at 128.
[4] *Id.* at 136.
[5] 42 U.S.C. 2000e(k).
[6] *Id.*
[7] *See* U.S. Equal Employment Opportunity Commission, *Enforcement Guidance: Pregnancy Discrimination and Related Issues* (July 2014), *available at* http://www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm.
[8] NAT'L WOMEN'S LAW CTR., IT SHOULDN'T BE A HEAVY LIFT: FAIR TREATMENT FOR PREGNANT WORKERS 3 (2013), *available at* http://www.nwlc.org/sites/default/files/pdfs/pregnant_workers.pdf.
[9] NAT'L P'SHIP FOR WOMEN AND FAMILIES, LISTENING TO NEW MOTHERS: THE EXPERIENCES OF EXPECTING AND NEW MOTHERS IN THE WORKPLACE 3 (2014), *available at* http://www.nationalpartnership.org/research-library/workplace-fairness/pregnancy-discrimination/listening-to-mothers-experiences-of-expecting-and-new-mothers.pdf.
[10] *See* NAT'L WOMEN'S LAW CTR., THE BUSINESS CASE FOR ACCOMMODATING PREGNANT WORKERS (2012), *available at* http://www.nwlc.org/sites/default/files/pdfs/pregnant_workers_business_case_12.04.12.pdf.