

The Virgin Islands Consortium

Opinion: Pregnant Workers Should Not Be Treated Worse Than Employees Who Are Injured On The Job

Business / **Published On December 01, 2014 09:04 AM /**

Staff **December 01, 2014**



(New York Times Editorial Board) -- ***Women Who Work*** -- If Peggy Young, who was a driver for United Parcel Service, had had an accident that limited her ability to lift heavy packages, or even lost her license because of driving while intoxicated, U.P.S. would have allowed her to go on "light duty" or assigned her another type of work. But Ms. Young got pregnant. When her doctors told her not to lift packages over 20 pounds to avoid jeopardizing the pregnancy, U.P.S. refused to accommodate her and effectively compelled her to go on unpaid medical leave.

Her case, which has implications for millions of American women and their families, will be argued before the Supreme Court on Wednesday. It is an opportunity for the court to strike a blow against discriminatory treatment and the resulting economic harm that are too often imposed on women who get pregnant — as the vast majority of women entering the work force eventually do.

Although many women can work through an entire pregnancy without job modifications, some — especially those in low-wage jobs requiring long hours, prolonged standing and heavy lifting — may require temporary help to safeguard their own health and their



Peggy Young Credit Doug Mills/The New York

Times

U.P.S. claims it has a legal right to deny pregnant workers who have temporary physical limitations the flexibility it shows workers with other conditions that similarly affect the tasks they are able to perform. It said its collective bargaining agreement limited work modifications to only three categories: those with injuries that occur on the job; people covered by the Americans With Disabilities Act; and those who lose their Department of Transportation certification because of a legal impediment, like a license revoked for driving while intoxicated. Sorry, pregnancy is not included.

Ms. Young argued in her lawsuit that the policy violated the Pregnancy Discrimination Act, the 1978 law that requires employers to give women affected by pregnancy, childbirth or related medical conditions the same accommodations it gives other employees who are “similar in their ability or inability to work.”

The language is plain and clear, as is the statute’s history, but the United States Court of Appeals for the Fourth Circuit rejected Ms. Young’s complaint. It said that respecting the act’s “unambiguous” text would create “anomalous consequences,” allegedly giving pregnant women preferential treatment. That is preposterous. To avoid systematically forcing pregnant workers out of their jobs, the law merely requires employers to treat them as they would treat employees eligible for a change in duty for other reasons.

In a brief filed in October, U.P.S. [said](#) it is discontinuing its policy of not accommodating pregnant workers as a matter of “corporate discretion,” but claims the policy was legal

and denies any liability for damages. It is good that, beginning on Jan. 1, pregnant U.P.S. employees will be treated better. But the notion that the better treatment is optional should not be allowed to stand.

U.P.S. said it was merely following the same pregnancy policy observed by the United States Postal Service and defended in the past by the Justice Department. But, in a [brief](#) supporting Ms. Young's claim, Solicitor General Donald Verrilli Jr. renounced the Justice Department's stance and said the Postal Service was reviewing its policy. Someone in the Obama administration needs to check how many other parts of the federal government have been following the same unfair policy for pregnant workers and put a stop to it.

Under a plain reading of the Pregnancy Discrimination Act, and also as a matter of fairness, pregnant workers should be treated no worse than employees who are injured on the job, and the Supreme Court should use the Young case to say so.