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Supreme Court Agrees to Hear Key Employment Cases: What This Will Mean for Employers

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Mach Mining v. Equal Employment Opportunity Commission

The Supreme Court agreed to hear a controversial case next year on the EEOC's obligation to conciliate or negotiate with employers prior to the EEOC filing suit. While most EEOC charges result in the individuals seeking private counsel to pursue their claims, if the EEOC itself seeks to sue your company, Title VII of the Civil Rights Act of 1964 requires the EEOC to conciliate in good faith before bringing suit. Over the years, both before and during the Obama Administration, the EEOC's view of conciliation too often has essentially been we tell you what we are willing to settle for and you can accept or reject our settlement proposal as is. The lower courts stand divided on whether the EEOC's approach meets the statutory standard.

Lesson for Employers: *The Supreme Court has agreed to hear a case addressing the EEOC's conciliation requirements and whether the Commission is complying with the law. Employers faced with EEOC threats of litigation should become knowledgeable about how each region approaches this issue before engaging in any conciliation process.*

Young v. UPS

The Supreme Court also agreed to hear Young v. United Parcel Service during the Court's next term. In that case, a pregnant driver with a 20 pound lifting limitation was denied "light duty" when it was granted to other groups of employees. The Court below held that, because pregnant employees were treated the same as all non-pregnant employees in terms of light duty, it did not violate the Pregnancy Discrimination Act. The plaintiff alleged that because some employees, including those injured on the job or with covered disabilities under the ADA, were entitled to light duty assignments, pregnant employees should be eligible for them as well. The question before the Court will be whether the Pregnancy Discrimination Act requires employers that provide work accommodations to non-pregnant employees with work limitations to provide those work accommodations to pregnant employees who are similar in their ability or inability to work. The ADA does not classify pregnant workers as disabled. Efforts are underway to challenge or narrow this.

Lessons for Employers: *The ADAAA, which amended the ADA after this case arose, and its regulations, may make the case, less important however it is decided. The ADAAA broadened the definition of disability to cover disabilities of limited duration. The EEOC has taken the position that certain impairments resulting from pregnancy may be covered if they substantially limit a major life activity. Employers faced with requests from pregnant employees should probably talk to counsel before jumping into a decision on how to handle them.*

