

### **EEOC Issues New Pregnancy Discrimination Guidance**

On Monday, July 14, 2014, the EEOC published new enforcement guidelines regarding discrimination against pregnant workers under the Pregnancy Discrimination Act (PDA) and the Americans with Disabilities Act (ADA). The guidance, entitled, Enforcement Guidance: Pregnancy Discrimination and Related Issues (the Guidance), is the first significant update of EEOC guidelines with respect to pregnancy discrimination in over 30 years, and it incorporates the 2008 revisions to the ADA which, among other things, lowered the bar to establish a disability.

The timing of the Guidance, just after the Supreme Court announced on July 1, 2014, that it would hear a recent pregnancy discrimination case out of the Fourth Circuit [Young v. United Parcel Service, Inc., 707 F.3d 437 (4th Cir. 2013), cert. granted, ---S. Ct. ---- (2014) 2014 WL 2391839] has raised red flags among many attorneys and legal analysts, including two Commissioners at the EEOC who voted against issuing the Guidance at this time. The Supreme Court's decision in that case may directly impact some of the specific guidelines articulated by the EEOC. For example, the EEOC advises that an employer may not deny light duty [work] to a pregnant employee based on a policy that limits light duty to employees with on-the-job injuries. See Questions and Answers about the EEOC's Enforcement Guidance on Pregnancy Discrimination and Related Issues, (July 14, 2014) [http://www.eeoc.gov/laws/guidance/pregnancy\\_qa.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_qa.cfm). This fact pattern is specifically raised in the Young case, and the Fourth Circuit determined that it was not violative of the PDA to distinguish between workers who were injured on the job and those who were not, even if they present with the same limitations.

The Guidance is far reaching, suggesting that employers may bear a greater burden to accommodate pregnant employees. However, the Supreme Court's forthcoming consideration of the Young case could moot many of the suggested standards.

For the most up-to-date information on compliance-related issues under the ADA, the PDA or other employment discrimination statutes and regulations, contact The Wolford Law Firm LLP. Our attorneys have experience successfully defending corporations and other businesses against claims of discrimination in federal and state court and before the New York State Division of Human Rights.