



NVCAC Sponsored NRMCA First Level Pervious Concrete Certification Course & Hands-On Training

Hessam Nabavi, Director of Industry Services



performed by Pervious Concrete Craftsman, Matt Cockerham with North Star Foundations and his crew. Students were encouraged to participate in the hands-on demonstration to experience the process. Throughout the demonstration, Matt and NVCAC representatives were answering questions and pointing out specifics.

This event is part of NVCAC education/promotional effort to increase the number of qualified pervious concrete installers.

For detailed information about various levels of Pervious Concrete Certification, visit <http://www.nrmca.org/certifications/pervious/index.asp>.

This past April, Northern Virginia Concrete Advisory Council sponsored a NRMCA Pervious Concrete Contractor Certification Course (Pervious Concrete Technician) and Hands-On Training.

Contractors, design engineers, inspectors and county personnel were among the attendants.

William Rafferty with Swope & Associates, Inc. instructed the course and covered the review session in the morning. Soon after the review session, hands-on training was

performed by Pervious Concrete Craftsman, Matt Cockerham with North Star Foundations and his crew. Students were encouraged to participate in the hands-on demonstration to experience the process. Throughout the demonstration, Matt and NVCAC representatives were answering questions and pointing out specifics.

Lewis Lee with Luck Stone Corporation for taking care of the logistics.

Lewis Murphy, Plant Manager at Luck Stone Leesburg Quarry for providing the training room, location for the placement and assistance with other details.

William Rafferty with Swope & Associates, Inc. for making himself available for the fourth year to teach the course.

Dave Snider, NVCAC Chairman with Vulcan Materials for providing the pervious concrete and other logistics.

Matt Cockerham with North Star Foundations for making himself available to teach the placement process and share his knowledge and experience with students.

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New Tilt-Up Building at I-81 Travel Center

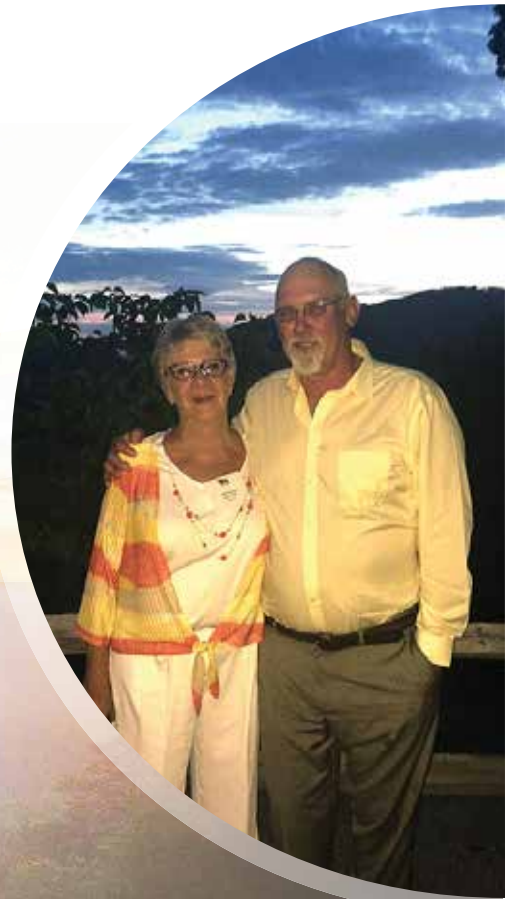
Bob Nablo, Director of Industry Services

The newest addition to White's Travel Center in Raphine – formerly known as White's Truck Stop – is a 19,100 square foot tilt-up building called the Petro Stopping Center, designed by Kirchner Architects of Lexington and constructed by Nielsen Builders' Tilt-Con subsidiary. Nielsen Project Manager Tim Shenk says that the facility, scheduled for completion this fall, will provide 24/7 space for retail stores and services for both truck drivers and the community. The "Open Mall" facility will house a pharmacy, a theater, a barber shop, a Caribou Coffee, a Subway restaurant, a Popeye's restaurant, a washing/grooming area for pets and additional laundry facilities. The facility also includes a 4,604 sq. ft. central receiving warehouse for handling logistics for the entire Petro campus. The concrete was supplied by Allied Concrete and totaled 255 cubic yards for the wall panels alone. The building is comprised

of 32 panels, some weighing as much as 40,000 lbs., and they were all set in one day. The exterior walls will feature the Petro paint scheme and natural stone veneer.

Nielsen Builders performs quite a bit of tilt-up work, and in recent years has constructed several buildings in the Shenandoah Valley region, including a new building for the Harrisonburg Daily News Record, three gymnasiums for the Harrisonburg Combined School project, a warehouse for Hollister in Stuart's Draft, the 108,000 sq. ft. warehouse for Interchange cPAD3 next to I-81, a multi-use tenant project in Harrisonburg and Charlottesville projects for Rudy's Rug Cleaning and Gander Mountain.





VRMCA 2015 SPRING CONVENTION



The VRMCA Spring Convention took place May 17-19 at the historic Greenbrier Hotel in White Sulphur Springs, WV with over 140 members, spouses, guests and speakers in attendance.

The meeting kicked off with a Welcome Reception on Sunday evening, which gave attendees time to socialize and meet some of our Convention speakers.

We began the Monday morning sessions with Ric Suzio, President of the L. Suzio Concrete Co. and NRMCA Immediate Past Chairman who reviewed the benefits of NRMCA membership,

reviewed the current programs NRMCA is offering and gave an update on the Check-Off program. We then heard reports from the VRMCA Safety & Human Resources, Technical & Plant & Fleet Maintenance Committees. VRMCA Past President Bob Chandler presented the membership with the slate of nominees to join the Board of Directors during the Business meeting on Monday. Winners of the VRMCA Safety Awards were then announced (see page 6 for the full list). Next David Paylor, Director of Department of Environmental Quality, presented an overview of new regulations that he is seeing over the next five years and how Virginia plans on responding and enforcing those.

Monday afternoon, attendees had the chance to either play in the VRMCA Golf Tournament, shoot sporting clays in the Shooting Tournament or participate in the private wine tasting and casino lesson.

Attendees enjoyed a casual BBQ buffet/pig-roast dinner on Monday evening at Kate's Mountain Lodge surrounded by gorgeous views of the Allegheny Mountains. Tournament winners were announced prior to the dinner. The winning golf team members were Niles Mason, Lafarge; Teck Chua, Vulcan; Dave Riemenschneider, Vulcan; and Marc Granahan, Lehigh Cement. Jay McNeely, Eagle Corp., took first place in the Shooting Tournament followed by Tony Wilt, Superior Concrete, in second. Congratulations to all our winners! In attendance during the Convention was our 2015 Truck Rodeo winner Steven Odehnal and his wife Mollie. Steve has been driving for Capital Concrete for 5 years and was the first place winner last year as well. President Jay McNeely presented him with a Certificate of Achievement prior to dinner.

Tuesday continued with sessions from John Napolitano, President of the Home Builders Association of Virginia & Sr. Vice-President of Napolitano Homes who gave a state-of-the-economy for homebuilders and suggestions for building relationships with the home building industry. Our keynote speaker, Dr. Christopher Winter of Charlottesville Neurology and Sleep Medicine, followed with Sleep Better: Improve Everything in Your Life. All speaker presentations are available to view online at <http://www.vrmca.com/downloads/downloadcat.aspx?ID=10>.

Thank you again to all of our sponsors who helped to make this event and all VRMCA events possible. Mark your calendars for our Fall Convention taking place October 4-6, 2015 at the Hilton Virginia Beach Oceanfront Hotel!





The VRMCA hosted its Annual Mixer Truck Rodeo on May 4, 2015 at the Meadow Event Park in Doswell, Virginia. This competitive event focuses on mixer truck driver safety through a written examination and driving skills course. John Detmer, the VRMCA Safety Committee Chairman, acted as emcee for the day and called on drivers to take their turns at the obstacle courses. Con-Tech Manufacturing, Inc. had a demo truck, with part of the drum removed, on display during the event. The Association wishes to extend a thank you to all of those who volunteered on the course, the classroom and our event sponsors. Board members were on-site as well to show their support, along with representatives from producers and suppliers across the state.

This year's group consisted of 21 drivers from member companies. The driver earning the highest combined score in the written examination, pre-trip inspection with a state trooper, and the driving obstacle course wins first place, consisting of a cash award and a trip to the Spring Convention. Steven Odehnal of Capital Concrete emerged victorious for the second year in a row! Sam Britt of Vulcan Materials took 2nd place for the second year in a row as well! Congratulations to the winners and we look forward to next year's event!



VRMCA Safety Award Winners Announced

The winners of the 2015 VRMCA Safety Awards were announced on Monday, May 18th at the Spring Convention at the Greenbrier Resort. Winners are determined using a metric, which includes items from the OSHA 300A Log, number of DOT reportable accidents, hours worked at each facility and an industry-specific Injury Frequency Rate (IFR) determined annually. Results for 2015 were based on reporting from 2014. There were 85 entries this year representing 15 different member companies! To achieve Gold status, a plant had to have had 0 lost-time injuries, an overall IFT of 2.9 or less and no DOT recordable. There were 59 gold-level winners. To achieve Silver status, a plant had to have no lost time injuries and

Allied Concrete – 3 Gold, 1 Silver
 Argos Mixed Concrete Company – 1 Gold, 2 Silver
 Bedford Ready Mix – 1 Gold
 Boxley – 3 Gold
 Branscome – 3 Gold, 1 Silver
 Chandler Concrete – 12 Gold
 Chaney Enterprises – 2 Gold

Essroc Ready Mix – 5 Gold
 GreenRock Materials – 3 Gold
 Lynchburg Ready Mix – 1 Gold
 Powhatan Ready Mix – 1 Gold, 1 Silver
 R.R. Beasley – 1 Gold
 Superior Concrete – 1 Gold, 1 Silver
 Titan America – 4 Gold, 1 Silver
 Vulcan Construction – 18 Gold, 5 Silver



On the Horizon Calendar of Upcoming Events

June 9, 2015

Hampton Roads Council Meeting
 11:30 AM – 1:00 PM
 Crazy Buffet and Grill
 Chesapeake, VA

June 11, 2015

NVCAC Quarterly Business Meeting
 11:00 AM – 2:00 PM
 Bull Run Country Club
 Haymarket, VA

June 16, 2015

Central VA Council Meeting
 11:30 AM – 1:00 PM
 American Tap Room

June 23, 2015

Southwest VA Council Meeting
 8:30 AM – 9:30 AM
 Christiansburg IHOP
 Christiansburg, VA

October 4-6, 2015

VRMCA Fall Convention
 Hilton VA Beach Oceanfront Hotel
 Virginia Beach, VA

Please visit the online calendar for an up-to-date list of events.

www.VRMCA.com/calendar

Supreme Court Redefines Standard for Disparate Treatment under the Pregnancy Discrimination Act

By John G. Kruchko and Jacquelyn L. Thompson*

In March 2015, the Supreme Court of the United States, in a 6-3 decision, redefined the standard for disparate treatment claims under the Pregnancy Discrimination Act (“PDA”), an amendment to the Civil Rights Act of 1964 (“Title VII”). Even if an employer has a seemingly legitimate, non-discriminatory reason for not accommodating a pregnant employee, the employee can overcome that reason and establish pretext by showing that the policy imposes a “significant burden on pregnant workers,” and that the employer’s reason is “not sufficiently strong to justify the burden.”

A. Background

In *Young v. United Parcel Service, Inc.*, 135 S. Ct. 1338 (2015), Peggy Young, a United Parcel Service, Inc. (“UPS”) driver, was pregnant; her doctor restricted her to lifting no more than 20 pounds. As her driver position required that she lift up to 70 pounds, Ms. Young requested light duty work. UPS had an accommodation policy but it only applied to restrictions that were the result of an on-the-job injury, an impairment covered by the Americans with Disabilities Act, or because of the loss of a Department of Transportation certification. As Ms. Young did not fall into one of those three categories, UPS denied her request.

Ms. Young sued, alleging disparate treatment under the PDA, which states that women “affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes . . . as other persons not affected but similar on their ability or inability to work.” The trial court held that Ms. Young could not make out a prima facie case because her alleged comparators were not similarly situated. The Fourth Circuit affirmed the summary judgment decision. Ms. Young then appealed to the Supreme Court.

B. The Supreme Court’s Decision

The Supreme Court held that a plaintiff alleging the denial of an accommodation under the PDA establishes a prima facie case of disparate treatment by showing that: (1) she is in the protected class; (2) she sought an accommodation; (3) the employer failed to accommodate her; and (4) the employer accommodated others similar in their ability or inability to work. The Court explained that while an employer can justify its refusal to accommodate by presenting a legitimate, non-discriminatory reason, the employer cannot rely on the fact that it would be more expensive or less convenient to accommodate a pregnant worker than a non-pregnant worker. Moreover, a plaintiff can create a question of pretext by providing evidence that the employer’s policies impose a significant burden on a pregnant worker and that the employer’s proffered reason does not justify the burden.

The Supreme Court also gave no deference to Enforcement Guidance released by the U.S. Equal Employment Opportunity Commission (“EEOC”) on this subject. In July 2014, after the Supreme Court had granted certiorari in this case, the EEOC promulgated guidance that stated that the PDA required employers to give “most favored nation” status to pregnant employees, meaning that a pregnant employee should get the same treatment as all other accommodated workers, regardless of other factors.

The Supreme Court rejected the EEOC’s analysis and did not give any deference to the Enforcement Guidance. Five Justices found that the language in the PDA required treatment similar to “other persons,” not “any other persons.” Moreover, the Supreme Court did not give any weight to the guidance because it lacked timing, consistency, and thoroughness of consideration to give it the power to persuade.

Therefore, the Supreme Court reversed the Fourth Circuit’s decision affirming summary judgment and held that there was a genuine dispute as to whether UPS treated non-pregnant employees more favorably than pregnant workers. As such, it remanded the matter to the Fourth Circuit to determine whether UPS’s reason for treating Ms. Young less favorably than others was pretext for discrimination.

C. Issues Raised on Dissent and Remand

In his dissent, Justice Scalia pointed out that the Court’s decision potentially exposes employers to liability under the PDA, and its associated compensatory and punitive damages, even when there is no discriminatory intent based on a facially neutral policy that may have a disproportionate impact on pregnant employees.

On remand, the Fourth Circuit initially affirmed summary judgment for UPS. See *Young v. UPS*, No. 11-2078, 2015 WL 1600406, at *11 (4th Cir. Apr. 10, 2015). It concluded that Young could not establish that similarly situated employees received more favorable treatment than she did, and therefore could not establish the fourth element of the prima facie case for pregnancy discrimination. In doing so, the Fourth Circuit followed the “majority of cases” in holding that pregnancy does not constitute a preferred status and found that there was no direct evidence of discrimination. The court noted its concern about the problematic potential of creating rights not grounded in the text and structure of Title VII as a whole. Notably, the Fourth Circuit’s opinion never referenced the Supreme Court’s holding above. However, the Fourth Circuit has now remanded the matter back to the U.S. District Court for the District of Maryland for a final determination.

D. Takeaway for Employers

This decision creates broader protection for pregnant workers, and thus, pregnancy discrimination cases became easier for employees. Employers should examine their policies to ensure that they do not impose greater burdens on pregnant workers. If a policy accommodates only limited classes of workers, an employer should consider how it could also reasonably accommodate pregnant workers. If an employer accommodates some employees under its current policies, then it must also accommodate pregnant employees.

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