Supreme Court Raises the Bar for Religious Accommodations in the Workplace: A New Standard of 'Undue Hardship' under Title VII

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Supreme Court's "clarification" significantly raises the bar for employers to deny religious accommodations in the workplace under Title VII: A more than de minimis cost is no longer sufficient to qualify as undue hardship – instead, an employer must establish that granting the accommodation would require substantially increased costs in the context of its business.

Toward the end of June, the Supreme Court of the United States issued opinions on some of the most consequential, and occasionally controversial, legal issues of the day. While most of the public's attention this year was focused on cases involving affirmative action in college admissions, the role of state courts in the election process, and the interplay between state anti-discrimination laws and the First Amendment, the Supreme Court's unanimous decision in *Groff v. DeJoy*, which "clarified" the meaning of Title VII's "undue hardship" standard for religious accommodations in the workplace, is also one on which employers should focus their attention.

Gerald Groff worked for the United States Postal Service (USPS) as a rural mail carrier in Pennsylvania. When the USPS started limited package deliveries for Amazon, Groff's supervisors informed him that he would be required to work on Sundays. As an evangelical Christian, Groff refused because he believed that Sundays were a day for rest, not labor. When Groff failed to show up for his Sunday shifts, the USPS progressively disciplined him, and Groff eventually resigned from his job.

Several months later, Groff sued the USPS for allegedly violating Title VII, a federal law which makes it unlawful for employers "to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . religion[.]" 42 U.S.C. § 2000e–2(a)(1). Under Title VII, employers are required to respect "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that [it] is unable to reasonably accommodate an employee's . . . religious observance or practice without undue hardship on the conduct of the employer's business." 42 U.S.C. § 2000e(j).

Groff argued that the USPS could have accommodated his request not to work on Sundays without experiencing "undue hardship" to its operations. The federal district court ruled in favor of the USPS. Relying on the Supreme Court's decision in *Trans World Airlines v. Hardison*, 432 U.S. 633 (1977), the United States Court of Appeals for the Third Circuit upheld the district court's decision because "requiring an employer to bear more than a *de minimis* cost to provide a religious accommodation is an undue hardship." In particular, the court of appeals found that Groff's request "imposed on his coworkers, disrupted the workplace and workflow, and diminished employee morale."

In a unanimous opinion authored by Justice Alito, the Supreme Court explained that *Hardison* had been misinterpreted by the lower courts for decades and vacated the judgment of the court of appeals. The Court held that "showing more than a *de minimis cost* . . . does not suffice to establish undue hardship under Title VII." Instead, an employer has to show that "the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." The Supreme Court instructed lower courts to take into account "all relevant factors" including "the particular accommodations at issue and their practical impact in light of the nature, size and operating cost of an employer." It also noted that "a hardship that is attributable to employee animosity to a particular religion, or religion in general, or to the very notion of accommodating religious practice" was antithetical to the purpose of Title VII.

In light of these principles, the Supreme Court remanded the case to the lower courts for reconsideration of whether the USPS failed to consider other possible accommodations for Groff.

Recommended Actions for Employers

The *Groff* decision may lead to a significant increase in workplace religious accommodation requests, which employers will need to consider carefully under the heightened standard articulated by the Supreme Court. Moreover, the courts of New Jersey and many other states follow federal precedent when interpreting their respective state laws governing religious accommodations. Accordingly, the *Groff* decision may cause state courts to modify their analysis of state law religious accommodation claims going forward.

Employers should consider the following:

- Reviewing and, where necessary, revising religious accommodation policies and forms
- Training supervisors, human resources personnel, and all other individuals involved in reviewing and deciding religious accommodation requests
- Developing a range of potential accommodation options most suitable for their operations, which may be offered in lieu of an employee's preferred accommodation when appropriate
- When denying religious accommodation requests, meticulously documenting the "substantial increased costs" that the request would have had on business operations

Employers should also consult with experienced employment counsel as needed.

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