

U.S. Supreme Court Raises the Bar for Employers in Religious Accommodation Cases

June 30, 2023

On June 29, 2023, the U.S. Supreme Court issued a unanimous **decision** clarifying the standard for determining whether employees' religious accommodation requests impose an undue hardship on employers. In *Groff v. DeJoy*, 600 U.S. ___, No. 22-174 (2023), the lower courts had granted and affirmed summary judgment for the employer, relying on *Trans World Airlines, Inc. v. Hardison*, a 1977 Supreme Court opinion, which stated that requiring an employer to bear "more than a *de minimis* cost" would be unduly burdensome.[1] In reversing the Third Circuit, the Court held that an employer will be required to prove that "granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business" before denying a religious accommodation.[2]

In *Groff*, the plaintiff, a former mail carrier who is an Evangelical Christian, believes that Sundays should be "devoted to worship and rest." [3] When Groff was hired by the United States Postal Service ("USPS") in 2012, his position did not generally involve work on Sundays. That changed, however, when USPS entered into an agreement with Amazon to deliver packages on Sundays. Groff sought and received a transfer to a small USPS station with only seven employees that initially did not work on Sundays, but then began to do so. Groff's Sunday assignments were redistributed to other employees. He received "progressive discipline" for refusing to work on Sundays. Eventually, Groff resigned.[4]

Groff sued under Title VII, claiming USPS could have accommodated his religious practices without undue hardship.[5] The Supreme Court analyzed *Hardison* and determined that despite its "*de minimis*" language often quoted by the Third Circuit and other courts, the *Hardison* Court had "stat[ed] three times that an accommodation is not required when it entails 'substantial' 'costs' or 'expenditures.'" [6] As a result, rather than overturning its 1977 decision, the Court clarified that *Hardison* "does not compel courts to read the 'more than *de minimis*' standard 'literally' or in a manner that undermines *Hardison's* references to 'substantial' costs." [7]

Ultimately, the *Groff* Court held that "showing 'more than a *de minimis* cost,' as that phrase is used in common parlance, does not suffice to establish 'undue hardship' under Title VII." [8] Instead, undue hardship "is shown when a burden is substantial in the overall context of an employer's business." [9] In other words, "an employer must show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." [10] When applying this test, courts must consider "all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, 'size and operating cost of [an] employer.'" [11]

From a practical standpoint, the Court recognized that much of the EEOC's guidance on undue hardships "is sensible and will, in all likelihood, be unaffected by [its] clarifying decision today." [12] However, employers will be subject to a higher standard in proving that a requested religious accommodation would impose an undue hardship when deciding whether to grant employee religious accommodation requests.

If you would like to discuss how the Court's decision will impact your organization, please call your Miller Canfield attorney, a member of the **Miller Canfield Employment and Labor Group**, or one of the authors of this alert.

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[1] *Groff v. DeJoy*, 35 F.4th 162, 174, n. 18 (3d Cir. 2022) (quoting *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977)).

[2] Slip Op. at 18.

[3] *Id.* at 1.

[4] *Id.* at 2-3.

[5] *Id.* at 3.

[6] *Id.* at 12.

[7] *Id.* at 14-15.

[8] *Id.* at 15.

[9] *Id.* at 15-16.

[10] *Id.* at 18.

[11] *Id.*

[12] *Id.* at 19.