Supreme Court Increases Burden on Employers Seeking to Deny a Religious Accommodation Based upon Undue Hardship

For the past 46 years, employers across the United States have understood that, under Title VII of the Civil Rights Act of 1964 (Title VII), they were permitted to deny an employee's religious accommodation request based upon "undue hardship" so long as the burden of granting the accommodation would result in "more than a *de minimis* cost." Employers based this understanding on the 1977 Supreme Court decision in *Trans World Airlines, Inc. v. Hardison*,[1] where the Court first stated that requiring an employer to "bear more than a *de minimis* cost" in granting a religious accommodation would constitute "an undue hardship."[2] This standard has been consistently upheld by courts throughout the country since *Hardison* was first decided.

On June 29, 2023, the U.S. Supreme Court issued its decision in *Groff v. DeJoy,*[3] which clarified its holding in *Hardison* and fundamentally changed the manner in which employers must consider whether granting a religious accommodation will cause an undue hardship. *Groff* involved an employee of the U.S. Postal Service (USPS) who believed for religious reasons that Sundays should be devoted to religious activities and not work. Based upon these beliefs, the employee asked that he be permitted to not work on Sundays. The USPS denied the employee's requested accommodation, claiming that it would result in an undue hardship based on the inconvenience to other employees and disruption in the workflow. The employee sued the USPS, claiming his rights under Title VII had been violated by the USPS's refusal to grant an accommodation.

The District Court granted summary judgment to the USPS and dismissed the employee's Title VII claim, and the Third Circuit affirmed. Both courts held that the USPS had established undue hardship based upon the low "*de minimis* cost" threshold. In *Groff*, the Supreme Court rejected the lower courts' analysis and held that the "*de minimis* cost" standard was inappropriate and should no longer be utilized by employers or courts to determine whether an employer can demonstrate undue hardship. The Court explained that lower courts' adherence to this standard was based upon a misreading of the *Hardison* decision.

After rejecting the "*de minimis* cost" threshold, the Court articulated a new standard: to establish "undue hardship," an employer must now "show that the burden of granting an accommodation would result in ***substantial increased costs in relation to the conduct of its particular business.***"[4] The Court noted that this is necessarily a "fact-specific inquiry."[5]

1 432 U.S. 63 (1977).
2 *Id.* at 84.
3 --- S.Ct. ---, 2023 WL 4239256 (June 29, 2023).
4 *Id.* at 18 (emphasis added).
5 Id. at 10.

Although the Court did not provide specific parameters for evaluating what would constitute a "substantial increased cost," it clarified that the impact of the proposed accommodation on coworkers alone was not sufficient to meet this new standard. Rather, to constitute undue hardship, coworker impacts must "affect the conduct of the business."[6] The Court also instructed employers that Title VII required them to "reasonably accommodate an employee's practice of religion, not merely . . . assess the reasonableness of a particular possible accommodation."[7] The impact of this instruction, according to the Court, was that employers cannot simply conclude that a particular accommodation would constitute undue hardship. Rather, "[c]onsideration of other options . . . would also be necessary."[8]

The Impact of the Decision

The *Groff* decision will fundamentally change the way employers consider and process employee religious accommodation requests. Employers are no longer able to deny religious accommodation requests because granting the accommodation would present more than a *de minimis* cost. It is also clear from *Groff* that simply relying on coworker inconvenience or dissatisfaction with proposed accommodations will not be enough.

As courts across the country begin to interpret this new standard, it will be crucial for employers to approach religious accommodation requests with much more caution. For more information on how this decision impacts your business, or if you have questions about specific religious accommodation requests, please contact Adam Mastroleo, Kali Schreiner or the Bond attorney with whom you are in regular contact.

6 *Id.* at 12.
7 *Id.* at 4.
8 *Id.*

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