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Lawyer Insights

Supreme Court Clarifies 'Undue Hardship' Standard for Title VII Religious Accommodation Claims

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Published in National Law Journal | October 4, 2023

On June 29, 2023, the U.S. Supreme Court in *Groff* v. *DeJoy* clarified the "undue hardship" standard under which an employer may deny a religious accommodationunder Title VII of the Civil Rights Act of 1964. In a unanimous opinion authored byJustice Samuel Alito, the court rejected a "de minimis cost" test and held that an employer denying a religious accommodation must show that the burden of granting an accommodation "would result in substantial increased costs in relation to the conduct of its particular business."

The case was brought by Gerald Groff, a U.S. Postal Service mail carrier who believed for religious reasons that Sundays should be devoted to worship and rest.When Groff refused to work Sundays, USPS redistributed his Sunday deliveries to other staff and disciplined Groff, who later resigned. Groff then sued USPS under Title VII, asserting that USPS could have accommodated his Sunday Sabbath practice without undue hardship.

The district court granted summary judgment to USPS. The Third Circuit affirmed based on the U.S. Supreme Court's 1977 decision in Trans World Airlines, Inc. v. Hardison, which it construed to mean "that requiring an employer 'to bear more than a de minimis cost' to provide a religious accommodation is an undue hardship." The Third Circuit found the de minimis cost standard was met because exempting Groff from Sunday work had "imposed on his coworkers, disrupted the workplace and workflow, and diminished employee morale."

Opinion

The question presented in Groff v. DeJoy was twofold: (1) whether the court should disapprove the de minimis cost test for refusing Title VII religious accommodations as stated in Hardison; and (2) whether an employer may demonstrate "undue hardship"under Title VII merely by showing burden on the employee's coworkers rather than the business itself.

On the first question, the court held that an "undue burden" was one that would result in "substantial increased costs in relation to the conduct of its particular business"—a"fact-specific inquiry" that comports with both Hardison and the meaning of "undue hardship" in ordinary speech according to the court. The court stated that the test must be applied in a manner that takes into account "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 [the] employer." However, the court declined to determine whether USPS had met this standard and instead remanded to the lower court to make that determination.

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On the second question presented, the court clarified that not all impacts on coworkers are relevant to whether a requested religious accommodation is an undue hardship. Only those that “go on to affect the conduct of the business” are relevant.The court explicitly stated that a hardship due to employee animosity to a particular religion, to religion in general, or to the very notion of accommodating religious practice cannot be considered “undue.” Further, the court stated that it is not enough for an employer to conclude whether a requested religious accommodation is an undue hardship; the employer must also consider other possible options.

What This Means for Employers

Based on this decision, we anticipate an increase in religious accommodation requests and related litigation. Before *Groff*, employers easily met the “de minimis cost” test for undue hardship when handling religious accommodation requests under Title VII. Even relatively minor requests could be denied, as long as granting the accommodation would impose “more than a de minimis cost.” That standard is no more.

Now, under the new, clarified standard in *Groff*, employers must determine “undue hardship” on a case-by-case basis, taking into account all factors relevant to whether a requested accommodation would result in substantial increased costs in conducting their business. This inquiry is highly fact-intensive and should give employers reason to pause before denying a religious accommodation request.

While the *Groff* decision is vague in many respects and it remains to be seen how lower courts will interpret it, the opinion does provide some immediate guidance for employers. First, the court offers guidance that impact on coworkers could be a relevant factor in determining undue hardship to the extent the impact affects the conduct of the business. As mentioned above however, the court made clear that certain “impacts” should be irrelevant to the inquiry. Essentially, co-worker hostility to religion (whether a specific religion or generally) or to accommodating religious practices should not be considered undue. This conclusion makes sense because allowing such religious bias or hostility to factor into an undue hardship defense would be at odds with the very purpose of Title VII.

Second, the court also offered guidance to employers that the undue hardship test for religious accommodation claims under Title VII is not the same as the test for undue hardship under the Americans with Disabilities Act (ADA). The ADA excuses an employer from reasonably accommodating an employee with a disability if doing so would impose an undue hardship on the employer’s business. While the two standards seem similar in nature, the court expressly declined to instruct lower courts to “draw upon decades of ADA caselaw.”

Third, whether dealing with a religious accommodation request or a disabilityaccommodation request, both Title VII and the ADA require employers to engage in an interactive process to determine other possible options if the requested accommodation is determined to result in undue hardship.

Finally, while employers can, and should, continue to look to guidance issued by the U.S. Equal Employment Opportunity Commission (EEOC) in determining whether an accommodation imposes an undue hardship, they should tread with caution. The court in *Groff* stated that “a good deal of the EEOC’s guidance in this area is sensible and will, in all likelihood, be unaffected by our clarifying decision today,” but it also declined to adopt the current guidance in toto because the EEOC has not had the opportunity to benefit from the court’s clarification provided in *Groff*. We anticipate the EEOC will provide more or amended guidance on this topic.

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