

Recent Decisions Emphasize the Significance of Employer Responses to Religious Accommodation Requests

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In *Groff v. Dejoy*, the United States Supreme Court held that: “Title VII requires an employer that denies a religious accommodation to show that the burden of granting an accommodation would result in **substantial increased costs** in relation to the conduct of its particular business.” For almost 50 years prior to the *Groff* decision, many lower courts and employers interpreted a previous United States Supreme Court decision, *Trans World Airlines v. Hardison*, to require an employer to simply show “more than a de minimus cost” to demonstrate that the religious accommodation request was an undue hardship to the employer. Post *Groff*, courts will require an employer to demonstrate a “substantial burden” before rejecting a religious accommodation request taking into account “all relevant factors of the case at hand.” Furthermore, the *Groff* Court instructed employers that an appropriate analysis of a religious accommodation request requires a consideration of other potential accommodations, not just the requested accommodation. Clearly, future religious accommodation requests will require a more detailed, reasoned, and documented approach.

Following *Groff*, not surprisingly, courts are placing an increased burden on employers that refuse accommodations. For instance, in *Hebrew v. Texas Department of Criminal Justice*, the Fifth Circuit Court of Appeals cited *Groff* and reversed judgment in favor of an employer who denied an employee’s religious accommodation request to maintain his long hair and beard despite the employer’s otherwise neutral grooming policy requiring short hair and no beards. This recent focus on religious accommodations extends to the EEOC, which has filed numerous lawsuits since *Groff* and has recently announced settlements in religious discrimination cases involving employer grooming policies and refusals to accommodate employee time off requests.

In sum, employers need to carefully evaluate and document substantial costs to the organization before denying religious accommodation requests. Areas where employers are likely to encounter such requests are accommodations due to grooming, dress, holidays, and attendance policies. More recently, employers are receiving religious accommodation requests related to DEI initiatives and related training, employer requirements to use an employee’s preferred pronoun, and employer vaccination policies. And remember, the EEOC considers “religion” to be defined in the broadest sense to include not only traditional, organized religions but also beliefs that are “new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people” or that seem illogical or unreasonable to others “including nontheistic” beliefs.

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