Supreme Court Raises Standard for Employers to Deny Religious Accommodations

By: Katie Conklin

On June 29, 2023, the U.S. Supreme Court issued a unanimous opinion in *Groff v. DeJoy,* raising the standard for determining when a religious accommodation constitutes an "undue hardship" for an employer. Under the decision, an employer may only deny an employee's request for religious accommodation if the accommodation would create a substantial hardship to the employer's business.

Title VII of the Civil Rights Act of 1964 requires covered employers with at least 15 employees to provide reasonable accommodation to employees whose sincerely held religious beliefs, practices, or observances conflict with work requirements, unless doing so would create an undue hardship. *Groff v. DeJoy* focused on interpreting precedent from the Supreme Court's 1997 decision in *Trans World Airlines, Inc. v. Hardison*, which established the well-known standard that an employer may deny a religious accommodation if the accommodation would result in a more than *de minimis* cost.

Case Background

Gerald Groff is a former rural mail carrier for the United States Postal Service (USPS) who objected to Sunday work based on his observance of the Sabbath. Groff's position initially did not involve Sunday work, but that changed after the USPS began making Sunday deliveries for Amazon. The USPS initially accommodated Groff's request for Sundays off, transferring him to a station that did not make Sunday deliveries. When Amazon deliveries began at that station, the USPS redistributed Groff's Sunday deliveries to other employees. After repeated scheduling conflicts and overtime expenses for the employees covering Groff's Sunday shifts, the USPS disciplined Groff for failing to work on Sundays. Groff resigned and sued under Title VII, alleging that the USPS could have accommodated his Sunday Sabbath observance without undue hardship.

The district court granted summary judgment for the USPS (rejecting his claim as a matter of law), and the U.S. Court of Appeals for the Third Circuit affirmed. The Third Circuit found that the USPS satisfied the "more than *de minimis* cost" standard under *Hardison*, concluding that exempting Groff from Sunday work had burdened his co-workers, disrupted the workplace and workflow, and diminished employee morale.

Supreme Court's Decision

The Supreme Court held that showing "more than a *de minimis* cost" does not satisfy Title VII's undue hardship requirement. However, the Court declined to overrule *Hardison*, and instead stated that it now "understands *Hardison* to mean that 'undue hardship' is shown when a burden is substantial in the overall context of an employer's business." According to the Court, under this new "substantial hardship" standard, courts must 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."

What This Means for Employers

The Court did not provide factual scenarios for what might meet the new "substantial hardship" standard, leaving it for the lower courts to apply and flesh out. Still, going forward, it is clear that employers will

face greater difficulty demonstrating an employee's requested religious accommodation will result in undue hardship.

To ensure compliance with the Court's ruling, employers should seek legal review of all policies regarding religious discrimination and accommodation to determine if updates are needed. Employers should also seek legal counsel to determine if their current practices for assessing religious accommodation requests should be modified. Best practices will generally include engaging in a cooperative dialogue and interactive process with employees who present requests for religious accommodation, documenting all communications and decisions related to such requests and seeking legal counsel when it is unclear if the religious accommodation request will impose an undue hardship under the Court's new test.

If you have any questions concerning the Court's decision, please do not hesitate to contact Seigfreid Bingham's Employment Law attorneys for further information concerning compliance for your specific situation. We will continue to monitor the latest developments, guidance, and legal requirements in this area of law.

This article is general in nature and does not constitute legal advice. If you have legal questions, please consult the author, Katie Conklin (kconklin@sb-kc.com) 816.265.4114, or other attorneys in Seigfreid Bingham's Employment Law Group, including: John Vering (jvering@sb-kc.com) 816.265.4109, John Neyens (johnn@sb-kc.com) 816.265.4152, Mark Opara (mopara@sb-kc.com) 816.265.4140, Shannon Cohorst Johnson (sjohnson@sb-kc.com) 816.265.4139, Brenda Hamilton (bhamilton@sb-kc.com) 816.265.4103, Julie Parisi (jparisi@sb-kc.com) 816.265.4159, Christopher Tillery (ctillery@sb-kc.com) 816.265.4157, or your regular contact at Seigfreid Bingham at 816.421.4460.