

The Supreme Court Clarifies the Undue Hardship Standard Under Title VII

By: James P. Anelli, Ryan T. Warden, Robert G. Devine, Joseph M. Carr

Labor and Employment Alert

7.7.23

On June 29, 2023, the United States Supreme Court reversed the Third Circuit and clarified that Title VII of the Civil Rights of Act 1964 ("Title VII") requires a covered 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.

Title VII makes it unlawful for covered employers^[1] to fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's religion. This obligates employers to make "reasonable accommodations" to the religious needs of its employees unless the employer can demonstrate an undue burden on the conduct of its business.

Background

Gerald Groff ("Groff") is a former employee of the United States Postal Service ("USPS") who was terminated for his unwillingness to work on Sunday. As an Evangelical Christian, Groff believes that Sunday should be devoted to "worship and rest" – not the transportation of goods. Following an agreement with Amazon to begin facilitating Sunday parcel delivery services, Groff was required to work certain Sundays. Unwilling to do so, Groff requested and received a transfer to another USPS station that did not make Sunday deliveries.

After his transfer, Sunday deliveries began at Groff's new station. During peak seasons, deliveries that would have otherwise been performed by Groff were carried out by other USPS employees, including the postmaster. During other months, Groff's Sunday assignments were redistributed to other employees who complained about the consequences of Groff's absences. Throughout this time, Groff received progressive discipline until he resigned. Groff initiated this action asserting that USPS could have accommodated his Sunday Sabbath practice without undue hardship on its business.

The District Court granted summary judgment to USPS, dismissing the case. The Third Circuit affirmed, believing it was bound by Supreme Court precedent that held it was an undue burden for employers to bear more than *de minimis* cost to provide a religious accommodation. Not a difficult threshold to pass, the Third Circuit found the *de minimis* cost standard met, concluding that exempting Groff from Sunday work imposed on his coworkers, disrupted the workplace and workflow, and diminished employee morale. The Supreme Court granted Groff's ensuing petition for a writ of certiorari.

Decision

Writing for a unanimous Court, Justice Alito clarified the undue hardship standard under Title VII. Specifically, employers that deny religious accommodations must show more than *de minimis* cost to demonstrate undue hardship. Now, employers must show that the burden of granting a religious accommodation would result in substantial increased costs in relation to the conduct of the employer's particular business.

In applying this standard, courts must take 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 an employer. The Court determined that Title VII means what it says, and courts should resolve whether a hardship would be substantial in the context of an employer's business in the commonsense manner that it would use in applying such a test.

The Court declined to adopt the applicable standards that Groff and USPS suggested, either to incorporate the Americans with Disabilities Act or opine that the Equal Employment Opportunity Commission's construction of precedent has been basically correct. However, the Court noted that "a good deal of the [Equal Employment Opportunity Commission's] guidance in this area is sensible and will, in all likelihood, be unaffected by the Court's clarifying decision."

The Court also clarified "several recurring issues." Particularly, Title VII requires an assessment of a possible accommodation's effect on the conduct of the employer's business. Impacts on coworkers are relevant to the extent those impacts go on to affect the conduct of the business. The Court noted that employee animosity to a particular religion, to religion in general, or to the very notion of accommodating religious practice, cannot be considered an undue hardship. Additionally, bias or hostility to a religious practice or a religious accommodation cannot be a defense to a religious accommodation claim.

Takeaways

- Employers that deny a religious accommodation because it would cause an undue burden must demonstrate that granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.
- Courts must take 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 an employer.
- A good deal of the EEOC's guidance in this area is sensible and will, in all likelihood, be unaffected by the Court's clarifying decision.
- Having clarified the Title VII undue-hardship standard, the Court leaves the context-specific application of the clarified standard to the lower courts in the first instance.

Members of the Labor and Employment Group at White and Williams LLP are available to assist employers with guidance under the new Supreme Court decision. If you have questions, please contact James P. Anelli (anellij@whiteandwilliams.com; 201.368.7224), Ryan T. Warden (wardenr@whiteandwilliams.com; 215.864.6360), Robert G. Devine (deviner@whiteandwilliams.com; 856.317.3647), Joseph M. Carr (carrj@whiteandwilliams.com; 610.782.4907), or another member of the Labor and Employment Group.

For more developments in labor and employment law, head to The Employment Law Counselor blog or listen to The Employment Law Counselor podcast.

[1] Title VII applies to covered employers, such as private-sector employers with 15 or more employees, state and local government employers with 15 or more employees, and the federal government and its agencies.

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.