

July 24, 2023

U.S. Supreme Court Changes Religious Accommodation Standard

**David Michael**

Human Resources & Employment

The U.S. Supreme Court last month clarified the standard for when an employee's request for a religious accommodation imposed an "undue hardship" on an employer. Before this most recent decision (*Groff v. Dejoy*), employers could deny a religious accommodation that would pose an "undue hardship" by showing that the accommodation would impose "more than a *de minimis* cost." Employers will now be required to show that the accommodation requested will result in substantially increased costs in the overall context of an employer's business.

As discussed in [our preview of this case](#), Groff sued the U.S. Postal Service after being denied an accommodation to be excused from working on Sunday due to his religious beliefs. The lower courts ruled in favor of the Postal Service, applying the "more than *de minimis*" standard based on their interpretation of the Supreme Court's prior ruling in *Trans World Airlines, Inc. v. Hardison*.

In *Groff*, the court held that "more than *de minimis*" is no longer the correct standard. Now, employers must show that the accommodation would pose a "substantial" increase in costs on the employer based on the specific facts and context of the accommodation and employer at issues. To demonstrate an "undue hardship," employers will need to show that the "burden is substantial in the overall context of an employer's business." When applying this standard, employers should consider all relevant factors, including: (1) the particular accommodation at issue and (2) the practical impact of the accommodation in light of the nature, size and operating cost of an employer. The court emphasized that in applying this test, lower courts should be cognizant of the effect the accommodation has on the "conduct of the employer's business."

The court also went on to "clarify" several open issues in light of its newly adopted standard, including the impact of an accommodation on coworkers. The court held that such impact on coworkers is only relevant to the extent the impact goes on to affect the "conduct of the business." As it related to a request like Groff's (not to work on Sundays), the court stated "it would not be enough for an employer to conclude that forcing other employees to work overtime would constitute an undue hardship. Consideration of other options, such as voluntary shift swapping, would also be necessary." The court also went on to state that "hardship that is attributable to employee animosity to a particular religion, to religion in general, or to the very notion of accommodating religious practice cannot be considered 'undue.'"

In light of *Groff*, employers will need to reconsider their current employment practices related to religious accommodations to ensure compliance with this substantially increased costs standard.

If you have any questions or would like to discuss how this case impacts your employment practices or about accommodating an employee's religious belief or practice, please contact a member of Gould & Ratner's [Human Resources and Employment Law Practice](#).