Legal Update Article

Groff Takes DeJoy: U.S. Supreme Court Changes Standard in Religious Accommodation Case

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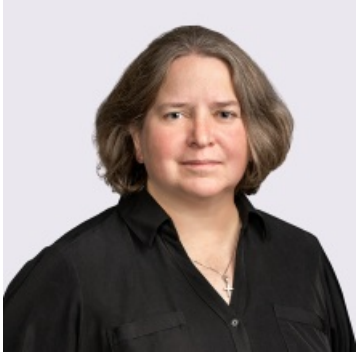
Meet the Authors



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The U.S. Supreme Court has "clarified" and changed the religious accommodation standard under Title VII of the Civil Rights Act that employers and the U.S. Equal Employment Opportunity Commission (EEOC) have relied upon for more than 46 years. *Groff v. DeJoy*, No. 22-174 (June 29, 2023).

Under the new standard, "'undue hardship' is shown when a burden is substantial in the overall context of an employer's business."

Background

Under Title VII, employers are required to reasonably accommodate employees whose sincerely held religious beliefs or observances conflict with work requirements, unless doing so would create an undue hardship for the employer. Absent a statutory definition of "undue hardship," courts have relied on the Court's decision in *TWA v. Hardison,* 432 U.S. 63 (1977), for the last 46 years to determine the parameters of the term. In *Hardison,* the Court stated that requiring an employer "to bear more than a de minimis cost in order to give [an employee] Saturdays off is an undue hardship."

In *Groff v. DeJoy,* former United States Postal Service (USPS) mail carrier Gerald Groff claimed he was unlawfully denied his requested religious accommodation to not work Sundays. (Some of us remember the days when there was no mail or deliveries on Sunday.)

The USPS tried to find other carriers to cover Groff's Sunday shifts, but, because of a shortage of rural carriers, efforts often failed. Groff requested that the USPS exempt him from Sunday work, but the USPS declined, stating his requested accommodation would lead to undue hardship for the USPS.

A majority of the U.S. Court of Appeals for the Third Circuit agreed, concluding that exempting Groff from working on Sundays would burden his coworkers, disrupt the workplace and workflow, diminish morale, and damage the USPS's operations.

Supreme Court Decision

In a unanimous opinion authored by Justice Samuel Alito, the Court changed the test.

According to the Court, 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." This is a significant change from what the EEOC and courts have stated, and on which employers have relied, for years. The Court declined to incorporate the undue hardship test under the Americans With Disabilities Act, which requires significant difficulty and expense.

The Court also declined to determine what facts would meet this new test and remanded the case back to the lower court to decide, setting up what likely will be years of legal

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battles with courts attempting to apply this new standard.

The Court however opined, "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." According to the Court, "Courts must apply the test to 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."

Jackson Lewis attorneys are available to answer questions about the impact of the Court's decision on employers and to help design and deliver effective training on the accommodation process, update accommodation, anti-harassment, and anti-discrimination policies, and provide advice and counsel on how to navigate potential changes in internal religious accommodation policies.

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