

## Law Alert: Pivotal U.S. Supreme Court Ruling Impacting Workplace Religious Accommodation Requests, by Partners Keith Gutstein and Matthew Cohen, 9-12-2023

Employers must meet a much-heightened standard to deny a religious accommodation request in the wake of a recent U.S. Supreme Court ruling rejecting a more employer-friendly interpretation dating back to 1977. Earlier this summer, in a unanimous opinion in *Groff v. DeJoy*, the Court held that federal anti-discrimination law (Title VII of the Civil Rights Act of 1964) 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.” Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against individuals because of their religion (or lack of religious belief) in hiring, firing, or any other terms and conditions of employment.

In issuing this opinion, the Court reinterpreted the established precedent in the nearly 50-year-old case, *Trans World Airlines, Inc. v. Hardison*, the standard lower courts generally use to determine whether a religious accommodation would constitute an “undue hardship” for an employer. Under that interpretation, an employer could reject a worker’s request if an employer had to bear more than “a de minimis cost” (ie. minimal cost) to provide a religious accommodation.

### Higher Standard

The new Court decision sets a higher standard for employers and could possibly lead to an increase in requests for accommodations including schedule changes, dress code allowances, job reassignments and even objections regarding vaccine mandates. The Court’s decision stems from a case involving Gerald Groff, an Evangelical Christian former United State Postal Service (USPS) worker.

Groff’s position generally did not involve Sunday work, but that changed after USPS agreed to begin facilitating Sunday deliveries for Amazon. To avoid the requirement to work Sundays on a rotating basis, Groff transferred to a rural USPS station that did not make Sunday deliveries. After Amazon deliveries began at that station as well, Groff remained unwilling to work Sundays, and USPS redistributed Groff’s Sunday deliveries to other USPS staff. Groff received “progressive discipline” for failing to work on Sundays, and he eventually resigned. Groff sued under Title VII of the Civil Rights Act of 1964, asserting that USPS could have accommodated his Sunday Sabbath practice “without undue hardship on the conduct of [USPS’s] business.”

While the Court’s rendered opinion makes it more difficult for employers to deny religious accommodation requests, the opinion does state when assessing whether a religious accommodation imposes an undue hardship on employers “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.”

Also, the Court said its opinion shouldn’t require the Equal Employment Opportunity Commission (EEOC) to revisit its own guidance on what qualifies as an undue hardship. The Court stated that “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.”

### Steps Employers Can Take

Still, this is a significant change and employers need to be proactive by doing the following:

- Prepare for a possible increase in religious accommodation requests;
- Train applicable staff on how to handle such requests in light of this recent ruling;
- Adjust policies and practices accordingly to ensure religious accommodation requests are handled properly;
- Train managers to engage in an interactive dialogue when it comes to handling requests;

- Make sure your policies are in compliance with other state and local anti-discrimination laws; and,
- Analyze all request for religious accommodations under the new standard discussed above.

#### Kaufman Dolowich Can Help

Our nationwide skilled labor and employment attorneys can assist in evaluating policies, procedures and accommodation requests in light of the recent U.S. Supreme Court ruling, as well as providing assistance in defending potential claims.