

THE U.S. SUPREME COURT WILL HEAR RELIGIOUS DISCRIMINATION CASE

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On October 2, 2014, the U.S. Supreme Court announced that it will hear the EEOC's appeal over whether a national retailer, Abercrombie & Fitch Stores Inc., violated the prohibition against discrimination based on religion pursuant to Title VII of the Civil Rights Act of 1964, as amended, when it did not hire a Muslim woman who wore a headscarf to a job interview. Neither the subject of the headscarf nor the plaintiff's religion was discussed during the job interview.

The case is among several that will be added to the docket for the court's 2014-2015 term, which begins on Monday.

Abercrombie's employee "look policy" has caused other legal worries for the retailer, including two EEOC cases that were settled in September. In settling those cases, Abercrombie agreed to update its policy to indicate that employees with sincerely held religious beliefs would be provided with a reasonable accommodation.

In the current case, the Tenth Circuit ruled that potential employees are required under Title VII to notify their employer of their religious beliefs if they seek accommodation. The Supreme Court will decide whether employees must provide notice of their religion. The EEOC argues that the Tenth Circuit's ruling is both inconsistent with other courts and represents too narrow an interpretation of the Title VII protections. The EEOC argues that the interpretation "threatens broad adverse consequences, particularly in situations involving applicants for employment, where applicants may never learn that their religious practices conflict with job requirements and therefore require accommodation."

Management will soon find out whether an employer can be held liable for failing to accommodate a religious conflict when an applicant or employee has not advised that the religious conflict exists. Stay tuned...