

Accommodating Religious Beliefs and Practices: What Employers Need to Know About the U.S. Supreme Court's Decision in *Groff v. DeJoy*

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On June 29, 2023, the U.S. Supreme Court issued its decision in *Groff v. DeJoy*, marking a significant shift in religious accommodation law and shaping how employers are required to accommodate employees' sincerely held religious practices and beliefs. This ruling raises the standard for employers, challenging them to make greater efforts to accommodate their employees' sincerely held religious beliefs and practices in the workplace.

In *Groff v. DeJoy*, Groff, the Plaintiff and a former United States Postal Service ("USPS") worker, worked at a rural USPS office that began working with Amazon to deliver packages on Sunday. Groff requested a reasonable accommodation to not work Sunday shifts so that he could observe and practice his religious beliefs. The USPS accommodated his request, but later required him to work on Sundays when the office could not find other postal workers to work Sunday shifts. Groff then transferred to another USPS office that did not deliver on Sundays. Eventually that USPS office began delivering Amazon packages on Sundays too. Again, the USPS could not often find employees to cover Groff's Sunday shifts so he could observe his religion. The USPS office started requiring Groff to work some Sunday shifts, and, when Groff failed to do so, he was disciplined. Groff eventually resigned, and filed suit claiming failure to accommodate under Title VII of the Civil Rights Act of 1964.

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Discrimination, Retaliation
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The U.S. Court of Appeals for the Third Circuit, using the current *de minimis* test for undue hardship, agreed with the district court that accommodating Groff's request to not work on Sundays to observe his religious beliefs posed an undue hardship for the USPS office, and disrupted the USPS' business and ability to efficiently deliver packages on Sundays.

The Supreme Court overruled Third Circuit's use of the test and held that employers must make more substantial efforts to accommodate an employee's sincerely held religious beliefs before claiming an undue hardship and denying the request for a reasonable accommodation.

Prior to the Supreme Court's holding in Groff, employers were required to offer reasonable accommodations to employees based on their sincerely held religious beliefs, as long as it did not impose an undue hardship on the employer's business where the undue hardship was more than a *de minimis* cost to business. Post Groff, employers are required to prove that the undue hardship is a substantial burden in the overall context of the employer's business. Employers are required to make exhaustive and substantial efforts to accommodate employees' sincerely held religious beliefs and practices before they can claim undue hardship. It is no longer sufficient to simply consider the possibility of accommodation; employers must demonstrate an earnest and comprehensive attempt to make accommodations work.

To meet this new standard, employers must engage in a more rigorous evaluation of potential accommodations and make a sincere effort to implement them. The flexibility of schedules, job duties, dress codes, and other work-related aspects must be thoroughly examined in light of an employee's religious needs. The ability to claim undue hardship now demands evidence of a deep dive into all possible accommodations and a concrete justification of why these accommodations cannot be met without significant disruption to business operations. While the Supreme Court did not discuss in depth what the USPS should have done before claiming undue hardship, the Court opined that USPS may have considered offering incentive pay to employees to work Sunday shifts or coordinating with neighboring post offices to deliver packages on Sundays.

Groff v. DeJoy has been remanded to the Third Circuit for further processing where we will learn more information about what employers must show before claiming a request for reasonable accommodation based on sincerely held religious beliefs is an undue hardship. The holding in Groff will undeniably have far-reaching implications for both employers and employees. Employers should revisit their policies and make more exhaustive efforts to accommodate sincerely held religious beliefs and practices.

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If you have any questions about what this means going forward, please contact your Laner Muchin attorney.