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CLIENT ALERT: United States Supreme Court Announces New Test for Employers to Demonstrate Undue Hardship to Accommodate Employee's Religion Under Title VII

On June 29, 2023, the United States Supreme Court issued its decision in *Groff v. Dejoy*, in which the Court announced a heightened standard for employers attempting to demonstrate that an employee's request for religious accommodation under Title VII would impose an undue hardship on its business. In *Groff*, the Supreme Court held that an employer must demonstrate that an employee's request for religious accommodation would impose a substantial difficulty or cost to its business operations before rejecting such request. This holding marks a departure from over 45 years of prior interpretation of the Supreme Court's 1977 holding in *Trans World Airlines, Inc. v. Hardison*, which lower courts relied on to hold that any request for religious accommodation that created more than a *de minimis* cost – a low bar –would constitute an undue hardship on an employer.

In *Groff,* a former United States postal worker requested not to work Sundays because of his religious practices. The Postal Service denied the employee's request, citing the requirements of the business and difficulties in scheduling, including needing to schedule other employees to cover the employee's shifts, as an undue hardship. The District Court and the Third Circuit Court of Appeals sided with the employer, holding that the Supreme Court's decision in *Trans World Airlines* allowed the employer to deny a religious accommodation where it could demonstrate that doing so would impose more than a *de minimis* cost, and therefore an undue hardship, to its business.

The Supreme Court disagreed with the Third Circuit's reliance on this prior interpretation of *Trans World Airlines*, and instead explained that the Supreme Court had not yet set forth a test for when an employer's costs to implement a religious accommodation would be deemed an "undue hardship." The

Supreme Court stated that lower courts relied too heavily on a single sentence in *Trans World Airlines*, which equated "undue hardship" with a more than *de minimis* cost. Instead, lower courts, including the one in the *Groff* case, needed to determine whether an employer would be required to incur substantial difficulty or costs to implement an employee's request for religious accommodation. The Supreme Court held that the language in *Trans World Airlines* supported such a finding, and that the Court, as well as Congress and the Equal Employment Opportunity Commission, had always intended for employers to have to demonstrate substantial difficulty or cost in denying employees a religious accommodation under Title VII. The Supreme Court sent the *Groff* case back to the lower court for consideration of the specific facts of the case using this new standard and determination of whether the employer could demonstrate whether accommodating the employee's schedule request would impose substantial difficulty or cost on the employer in this matter.

Though employers have long been aware of their obligations to accommodate an employee's religious beliefs under Title VII, they have understood their obligations to be something less than that of an undue burden under the Americans with Disabilities Act. The *Groff* decision throws former guidance into significant question as to whether an employer is required to accommodate employee's religious beliefs in certain circumstances, issues employers have continued to grapple with in today's post-pandemic climate. Should you have any questions about how the *Groff* decision impacts employees' requests for religious accommodation and your business, please reach out to your MBJ attorney.

Catherine "Cat" Scott is an attorney with Morgan, Brown & Joy, LLP, and may be reached at (617) 523-6666, or cscott@morganbrown.com. Morgan, Brown & Joy, LLP focuses exclusively on representing employers in employment and labor matters.

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