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What the Groff v. DeJoy SCOTUS Opinion Means for Employers

On June 29, 2023, the U.S. Supreme Court issued its opinion in *Groff v. DeJoy*. The case significantly heightens the bar for employers looking to deny an employee's request for a religious accommodation.

Facts of the case

Gerald Groff, an evangelical Christian, believes Sundays should be devoted to worship and rest. He took a job with the U.S. Postal Service (USPS), which did not require him to work on Sundays. That changed when Amazon deliveries started up at his branch in 2017.

USPS redistributed Groff's Sunday duties to other employees. Groff was disciplined for his continuing refusal to work on Sundays, and he eventually resigned.

The Third Circuit found that USPS could legitimately deny Groff's religious accommodation request based on a 1977 Supreme Court precedent. That decision allowed employers to deny religious accommodation requests posing anything greater than a "de minimis" cost to the employer. The Third Circuit agreed with USPS that accommodating Groff's request for Sundays off burdened his coworkers and disrupted workflows and morale.

New standard for religious accommodations

But now, the U.S. Supreme Court has overturned the Third Circuit's decision. In *Groff v. DeJoy*, the court concluded an employer wishing to deny a religious accommodation request must show that granting the accommodation would cause a "burden" that is "substantial in the overall context of [the] employer's business." This is a significant departure from the previous standard.

The Supreme Court's ruling places a greater emphasis on the "context" of the employer's business, making it harder for employers to deny religious accommodation requests. Unless the accommodation would impose a "substantial" burden on the employer's business, the employer must grant the accommodation.

What does a religious accommodation request look like?

Examples of common religious accommodation requests include:

- A request to reschedule an interview that takes place on a religious holiday
- A request for an exemption from a company dress code to wear a religious head covering
- A request to be excused from a company-standard religious invocation, such as a group prayer
- A request to be excused at certain intervals to observe a religious prayer schedule
- A request to refrain from working on an employee's Sabbath

It's important to note that *Groff v. DeJoy* addresses religious accommodations specifically. The holding of the case does not extend to other types of accommodations, such as those relating to pregnancy or disability.

What should you do differently in light of the *Groff v. DeJoy* holding?

Right now, it's not entirely clear what the ruling means for employers. In its 21-page opinion, the Supreme Court declined to define which facts could pass muster under the new test. Instead, it sent the case back

down to the Third Circuit.

However, the Supreme Court did specify that the new test should consider:

1. The nature of the employee's accommodation request
2. The nature of the employer's business
3. The employer's size
4. The employer's operating costs

You should consider all of these factors when deciding whether a religious accommodation would impose a substantial burden on your business.

In light of the Supreme Court's ruling, you should approach requests for religious accommodations with a great deal of care. Additionally, the law firm Womble Bond Dickinson recommends the following:

- Educating HR, supervisors and managers about the change in the law
- Updating your employee handbook
- Reviewing recently denied requests (if any) to see if they need to be reconsidered in light of the new law
- Tuning in to new EEOC guidance on the meaning of "undue hardship"

For help making sound and compliant choices in light of the *Groff v. DeJoy* opinion, reach out to your benefits broker or legal counsel.

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