

PUBLICATION

U.S. Supreme Court Holds Employers' Denial of Religious Accommodation Requests Require Proof of "Substantial Increased Costs"

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The Supreme Court released an opinion this morning in *Groff v. DeJoy*, No. 22-174, slip op., 600 U.S. ____ (2023), that marks a departure from the long-standing "de minimis" test lower courts and the Equal Employment Opportunity Commission (EEOC) relied on for determining whether an employer can establish the "undue hardship" required to decline to accommodate an employee's request for a religious accommodation under Title VII of the Civil Rights Act of 1964 (Title VII). *Groff*, an Evangelical Christian, filed suit against the United States Postal Service (USPS) alleging that the USPS violated Title VII when it failed to accommodate his inability to work on Sundays due to his observance of Sunday Sabbath. Applying the familiar "de minimis" standard, the Court of Appeals for the Third Circuit (Third Circuit) held that the USPS had established that *Groff's* request not to work on Sundays would cause an undue hardship because it could lead to overtime work and low morale when other employees had to pick up *Groff's* shifts, which would cause the USPS to bear more than a "de minimis" cost. *Groff* appealed the Third Circuit's decision.

In vacating the Third Circuit's decision, the Supreme Court held that "it would not be enough for an employer to conclude that forcing other employees to work overtime would constitute an undue hardship" without considering other options. *Groff*, slip op. at 20. Instead, before denying a religious accommodation request, an employer must be able to show that the "burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." *Id.* at 18. In making this determination, the Supreme Court opined that courts should apply a test that "takes 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 the employer. *Id.* at 18. The Supreme Court concluded its opinion by remanding *Groff's* case back to the lower court leaving it up to the lower court to analyze *Groff's* claims in light of the clarified "substantial increased costs" standard. *Id.* at 21. Employers will be required to consider the modified *Groff* test when determining whether to accommodate an employee's request for religious accommodation, however, we may not understand the full impact of *Groff* until lower courts begin to apply the modified standard, including the Third Circuit's application of the modified standard to the facts of the *Groff* case.

If you have any questions regarding this ruling, please reach out to [Donna Glover](#) or [Cayman Caven](#).

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