

Signed, sealed, delivered? SCOTUS to review religious accommodation test and potential takeaways for employers.

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The Supreme Court will hear a case (*Groff v. DeJoy*) brought by a former mail carrier who was disciplined for refusing to work on Sundays, allowing the Court to address religious-based workplace accommodations. More specifically, the Court is expected to address a decades-old precedent that an employer is not required to accommodate an employee's religious practices if such accommodation would create more than a *de minimis* burden on the employer's business. A reversal or modification to this precedent could have a significant impact on Title VII-covered employer operations.

Under Title VII, covered employers with at least 15 employees must provide a reasonable accommodation to employees when they have sincerely held religious beliefs, practices, or observances that conflict with work requirements, *provided* the accommodation does not create an undue hardship for the employer's business. Critically, Title VII does not define what accommodations are "reasonable" and/or when hardship may be considered "undue." Nearly a half century ago, the Supreme Court (in *Trans World Airlines, Inc. v. Hardison*) held that an "undue hardship" occurs when an accommodation requires an employer to "bear more than a *de minimis* cost," and employers nationwide have relied heavily on this decision ever since.

However, in recent years, this standard has been called into question, including by several of the Court's conservative members. For example, in 2021, Justice Gorsuch issued a dissent in another case, which focused on three civil rights statutes, including the Americans with Disabilities Act (ADA), which define "undue hardship" as a "significant difficulty or expense" in light of the employer's resources, number of employees and nature of operations. Ultimately, Justice Gorsuch's dissent may shed some light on the Court's path forward, potentially holding employers to a more rigorous standard.

The Court is expected to issue an opinion here by June 2023. In the meantime, covered employers should review their job descriptions to ensure that they encompass all essential job functions that may factor into religious accommodations. Employers should also review their accommodation policies and practices to ensure they are engaging in a good faith interactive process when assessing an employee's request for accommodation. Employers are also advised to consult with labor and employment counsel to determine if such an accommodation causes undue hardship.

<https://www.vox.com/policy-and-politics/23559038/supreme-court-groff-dejoy-religion-twa-hardison-workplace>

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