BALANCING BELIEFS IN BUSINESS: ANALYZING GROFF V. DEJOY'S IMPACT ON WORKPLACE RELIGIOUS ACCOMMODATIONS

Tiffany Moore, M.S.*

> "Religion in the American workplace is among the most contentious and difficult areas for employers to navigate. In our increasingly diverse and religiously pluralistic society, conflict is bound to occur, and if Equal Employment Opportunity Commission […] statistics are correct, it is occurring at an ever-quickening pace."[1]

INTRODUCTION: THE LEGAL MYSTERY OF WHAT CONSTITUTES UNDUE HARDSHIP

There is a fine line between what constitutes a reasonable religious accommodation by employers and what can appear to be religious discrimination to the employee.[2] What once began as an effort to protect the First Amendment rights of the employer has

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1. Anti-Defamation League, Religious Accommodation in the Workplace: Your Rights and Obligations (2012), https://www.adl.org/sites/default/files/religiousaccommodwkplacerevised07-29-15.pdf.

2. "An employee establishes a prima facie case [of religious discrimination] by showing that: (1) the employee has a bona fide religious belief that conflicts with an employment requirement; (2) the employee informed the employer of this belief; (3) the employee was disciplined for failing to comply with the conflicting employment requirement. Once the employee establishes her prima facie case, the burden shifts to the employer to show either that it offered any "reasonable accommodation" —and not necessarily the employee's preferred accommodation— or that any potential accommodation would cause the employer undue hardship." Wilson v. U.S. West Communications, 58 F.3d 1337, 1340 (8th Cir. 1995); see Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, 65-66 (1986) (applying the same standard).

since created a recurring, yet confusing, question: "What exactly constitutes an 'undue hardship' to the employer?" This seemingly simple question has been the subject of much litigation as the Equal Employment Opportunity Commission ("EEOC") has yet to develop a definition for the phrase and the Supreme Court has refused to give the phrase meaning.

"A reasonable accommodation is defined as "one that eliminates the employee's conflict between his religious practices and work requirements and does not cause an undue hardship for the employer".[3] In the realm of employment law, the essence of defining what constitutes "undue hardship" to the employer hinges on the balance of resolving conflicts between an employee's religious practices and work requirements and maintaining a functioning work environment. Religious accommodation requests for employees may range from time off or modifications in working hours, religious expression in the workplace, or style of dress and grooming. However, there are relatively few resources available to employers that lay a clear foundation on how to reasonably accommodate employees in their religious practices along with balancing the organizational workflow. Additionally, seeking guidance from case law can be confusing to the employer and oftentimes lead to a misguided approach. "Not only do outcomes vary from court to court, but the analysis and reasoning underlying these decisions are often inconsistent, and sometimes contrary."[4] It is almost apparent that until either the EEOC provides a clear definition as to what constitutes an "undue hardship", or the Supreme Court gives it meaning the concept of what exactly constitutes undue hardship will always be a legal mystery, as history will show that the interpretation of the phrase has changed dramatically since its inception.

I. TITLE VII OF THE CIVIL RIGHTS ACT OF 1964: A HISTORICAL

3. U.S. DEP'T OF LABOR, OFF. OF THE ASST. SEC. FOR ADMIN. & MANAGEMENT, OPINION LETTER ON RELIGIOUS DISCRIMINATION AND ACCOMMODATION IN THE FEDERAL WORKPLACE

4. Dallan F. Flake, *Image is Everything: Corporate Branding and Religious Accommodations in the Workplace,* 163 U. PA. L. REV. 699, 699-754 (2015).

PERSPECTIVE

The Civil Rights Act of 1964, a landmark piece of legislation in the United States, stands as a pivotal moment in the nation's ongoing quest for equality and justice. Enacted during a transformative period marked by the Civil Rights Movement, Title VII of the Civil Rights Act of 1964 was originally aimed at "[combating] the economic causes of [B]lack oppression".[5]

As time progressed there became a need to expand the 1964 Civil Rights Act to encompass a broader category of people.[6] The need for expansion of the Act was due, in part, in response to employee complaints regarding their employer's refusal to grant time off in observance of religious holidays.[7] In 1966, the Equal Employment Opportunity Commission imposed an affirmative duty on employers to "make reasonable accommodations to the religious needs of employees. . . where such accommodations can be made without undue hardship on the conduct of the employer's business."[8]

However, this newly adopted EEOC regulation proved to have little persuasive authority with the courts. This notion was again recognized in Justice Alito's majority opinion in *Groff*, when he stated "EEOC decisions did not settle the question of undue hardship. In 1970, the Sixth Circuit held (in a Sabbath case) that Title VII as then written did not require an employer 'to accede or to accommodate' religious practice because that 'would raise grave Establishment Clause questions."[9]

In *Dewey v. Reynolds Metals Co.*, an employee sued his employer after the company fired him due to his inability to work on Sundays in observance of his religious beliefs.[10] Here, the Sixth

5. Harvard Law Review, *Developments in the Law: Employment Discrimination and Title VII of the Civil Rights Act of 1964*, 84, Harv. L. Rev. 1109, 1109-1316, 1111 (1971).

6. The Act also encompasses other categories of discrimination such as discrimination in gender and disabilities, however this topic will not be discussed.

7. Flake, *supra* note 4.

8. Sidney A. Rosenzweig, *Restoring Religious Freedom to the Workplace: Title VII, RFRA and Religious Accommodation,* 144 U. PA. L. REV. 2513 (1996).

9. Groff v. Dejoy, 143 S. Ct. 2279, 2288 (2023). (referencing Dewey v. Reynolds Metal Co., 429 F.2d. 324, 334.)

10. Dewey v. Reynolds Metal Co., 429 F.2d 324, 327 (1970).

Circuit Court of Appeals ruled in favor of Reynolds Metals Co., holding "To construe the Act as authorizing the adoption of Regulations which would coerce or compel an employer to accede to or accommodate the religious beliefs of all his employees would raise grave constitutional questions of violation of the Establishment Clause of the First Amendment." *Dewey* was later affirmed by the Supreme Court in 1971, prompting Congress to amend Title VII in 1972 to include additional religious protections for employees.[11]

A. Expansion of The Act Post Dewey

The 1972 Amendment to Title VII of the Civil Rights Act of 1964 expanded the definition of "religion" to encompass "all aspects" of religious observance.[12] Additionally, the amendment makes clear that [employers], upon notice of a request [are required] to reasonably accommodate employees who's sincerely held religious beliefs, practices, or observances conflict with work requirements unless the accommodation would create an undue hardship. [13] These accommodations may include religious observances, practices and beliefs that differ from the employer's requirements regarding schedules or other business-related employment conditions.[14] The U.S. Department of Labor website defines a religious accommodation as any adjustment to the work environment that will allow an employee or applicant to practice [her] religion.[15] The Tenth Circuit Court of Appeals expanded this definition in stating "[a]accommodate . . . means . . . allowing the plaintiff to engage in [his] religious practice despite the employer's normal rules to the contrary. [16]

While this amendment proved to be a great stride in terms of mandating employees make accommodations for employee's

11. Flake, *supra* note 4, (Dewey v. Reynolds Metals Co. 402 U.S. 689, 689 (1971).

12. 42 U.S.C. § 2000e(j) (2023).

13. U.S. DEP'T OF LABOR, OFF. OF THE ASST. SEC. FOR ADMIN. & MANAGEMENT, OPINION LETTER ON RELIGIOUS DISCRIMINATION AND ACCOMMODATION IN THE FEDERAL WORKPLACE

14. DAVID TWOMEY, EMPLOYMENT DISCRIMINATION LAW: A MANAGER'S GUIDE 16 (West Publishing, 4th ed. 1998).

15. *Id.*

16. Christmon v. B&B Airparts, Inc., 735 Fed. Appx. 510, (2018).

religious practices, "the amendment left open the questing of what constitutes 'reasonable accommodation' and 'undue hardship' under the law."[17] "The overlap between disparate treatment analysis and failure to accommodate is especially prevalent in discharge and constructive discharge cases. Often, the employee who alleges inadequate accommodation feels compelled to violate a work-related rule [. . .] and is discharged."[18] In 1977, only five years after the enactment of the 1972 Amendment, the Supreme Court addressed this issue in an attempt to define what constitutes an "undue hardship" to the employer in *TWA v. Hardison. Hardison* is unique in the sense that was the first time the Supreme Court considered the circumstances under which an employer could legally deny a religious accommodation because of undue hardship.[19] "In overturning the appellate court decision, the Supreme Court famously declared "requiring an employer 'to bear more than a *de minimis* cost' to accommodate an employee's religious needs constitutes an undue hardship".[20]

II. *TWA V. HARDISON*: REASONABLE ACCOMMODATION AND UNDUE HARDSHIP DEFINED

The Supreme Court case *TWA v. Hardison*, arose from an employment dispute in which an employee was fired because his employer could not reasonably accommodate his religious accommodation request without impairing critical functions of the company's operations.[21] Resultingly, Hardison was faced with the difficult decision of choosing his religious views over his employment duties and was subsequently fired for insubordination following his refusal to report for his Saturday shifts. Hardison filed suit in the Western District of Missouri on the grounds that his employment with Trans World Airlines constituted a discrimination in violation of Title VII of the Civil Rights Act of 1964. [22] The trial court ruled in favor of the employer, the United States Court of Appeals for the Eight Circuit reversed

17. *Supra* note 4.

18. KENT SPRINGS, REPRESENTING PLAINTIFFS IN TITLE VII ACTIONS 6-7 (Panel Publishers eds., 2nd ed. 1999).

19. *Supra* note 8.

20. Hardison, 432 U.S., at 84.

21. *Id.*

22. *Id*.

the judgment in favor of the employer, holding that the employer had not satisfied its duty to accommodate the religious needs of its employee.[23]

Following the Eighth Circuit holding, certiorari was granted, and *Hardison* was heard at the Supreme Court level. The Supreme Court, in a 5-2 decision, held that TWA had fulfilled its obligation to reasonably accommodate Hardison's religious practices when the company "held several meetings with plaintiff at which it attempted to find a solution to plaintiff's problems [and] authorized the union steward t search for someone who would swap shifts [with plaintiff]".[24] Additionally, it was the Supreme Court's view that "[t]o require TWA to bear more than a *de minimis* cost in order to give Hardison Saturdays off is an undue hardship". [25] Justice Rehnquist, in his majority opinion, seemingly doubled down on this view in stating that "In the absence of clear statutory language or legislative history to the contrary, we will not readily construe the statue to require an employer to discriminate against some employees in order to enable others to observe their Sabbath".[26]

A. The De Minimis Standard

The term "*de minimis"* by definition, refers to something that is "very small or trifling".[27] The concept of *de minimis* cost, often invoked in legal contexts, refers to a minimal or negligible expense that is deemed so inconsequential that it is not subject to consideration or regulation. [28] Under *Hardison,* employers are generally obligated to make reasonable accommodations for an employee's religious practices unless doing so imposes more than a *de minimis* cost on the business. This implies that employers are not required to bear significant financial or operational burdens to accommodate an employee's religious beliefs, and the determination of what constitutes a *de minimis* cost can vary depending on the specific circumstances of each case. In the realm

23. *Id.*
24. *Id.*
25. Hardison*, 432* U.S.at 84
26. *Id.*
27. *De minimis,* BLACK'S LAW DICTIONARY (9th ed. 2009).
28. LISA GUERIN, J.D., EMPLOYMENT LAW: THE ESSENTIAL HR DESK REFERENCE 323 (Richard Stim, ed. 1st ed. 2011).

of employment law, the term frequently arises in the context of religious accommodation claims under Title VII of the Civil Rights Act. "The EEOC has also accepted *Hardison* as proscribing a "more than *de minimis* cost" test but has tried in some ways to soften its impact.[29]

Since *Hardison,* there have been many attempts to aid the EEOC in these "softening" efforts and provide context to the *de minimis* standard. For example, in *EEOC v Townley Engineering & Manufacturing* the Ninth Circuit held that "a claim of undue hardship cannot be supported by merely conceivable or hypothetical hardship; instead, it must be supported by proof of 'actual imposition on coworkers or disruption of the work routine"'.[30]Despite *Hardison*'s significance in shaping the landscape of religious accommodations, determining what constitutes an undue hardship was still a legal mystery. The Supreme Court's interpretation of Title VII left a critical void in its refusal to define what constitutes such hardship in the context of employment. Subsequent legal developments, including Congress' enactment of the Religious Freedom Restoration Act ("RFRA") and *Groff*, have added layers of complexity to the conversation.

III. HARMONY OF FIRST AMENDMENT AND RFRA: SAFEGUARDING RELIGIOUS FREEDOM

The concept of "undue hardship" on the employer is not strictly limited to economic factors. In fact, employers have historically argued that an employee's religious accommodation requests would result in the violation of certain legislation, such as a governmental statute or government agency regulation, which in turn, would subject the employer to consequences such as undue hardship. Thus, in addressing the subject of Title VII in relation to the RFRA in determining what constitutes an "undue hardship" as a means to deny an employee's reasonable religious accommodation requests, it is important to note the ability to freely exercise religion is one of the main principles on which America was founded upon, as made evident by both the Establishment Clause and the Free Exercise Clause of the First

29. Groff v. Dejoy 143 S.Ct. 2279, 2293 (2023).

30. EEOC v. Townley Eng'g & Mfg 859 F.2d 610, 615,(9th Cir. 1989).

Amendment.[31] The protections of the First Amendment Free Exercise Clause were made available to the states through its incorporation into the Fourteenth Amendment in 1940.[32] "The free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires".[33] These important Constitutional provisions emphasize the significance in protecting individuals' religious beliefs and practices from unwarranted government intrusion. However, employers still found themselves subject to litigation from employees based on religious discrimination post *Hardison.* "Labor laws can interfere with an employee's exercise of religion in contexts other than Sabbatarianism [. . .] government regulation outside the ambit of labor laws can also sometimes prevent an employer from accommodating the needs of its employees.[34]

Similar to the *Dewey* era*,* the Supreme Court's decision *Employment Div. v. Smith*[35] prompted Congress to enact further legislation to protect the religious rights of employees. In 1993, Congress enacted the Religious Freedom Restoration Act ("RFRA") in attempt to further safeguard the Constitutional protection of individual religious freedom.[36] The key provision of the RFRA provides that the government shall not [impose regulations which] substantially burden a person's [free] exercise of religion even if the burden results from a general rule of applicability.[37] The RFRA further provides that the government must provide a showing that a regulation which substantially burdens a person's religious freedom is necessary to achieve a compelling government interest. [38] The legislative intent of the RFRA was to restore the *Sherbert*

31. "Congress shall make no law respecting an establishment of religion or prohibiting its free exercise thereof". U.S. CONST. Amend. I

32. Cantwell v. Connecticut, 30 U.S. 296, 303 (1940).

33. Employment Div. v. Smith 494 U.S. 872, 877 (1990).

34. Rosenzweig, *supra* note 8. (the author of this article provides examples of such interference which include, but are not limited to, laws and regulations concerning drug use, garb, and grooming).

35. *SEE* Employment Div. v. Smith 494 U.S. 872, 889 (1990). (The Court held that employees' termination and subsequent denial of unemployment benefits was not in violation of the Free Exercise clause because the employees' use of a substance was illegal.)

36. *SEE* 139 CONG. REC. D1315 (DAILY ED. NOV. 16, 1993).

37. 42 U.S.C.S.§ 2000BB.

38. *Id.*

standard.[39] "Title VII is not implicated by the RFRA; instead, it is the labor law which substantially burden[s] a person's religion". [40] Thus, an RFRA analysis must be done when an employer argues "that some law within the [g]overnment's regulatory power constrains its ability to accommodate [their] employee".[41]

In *Burwell v. Hobby Lobby Stores, Inc.,* the Supreme Court affirmed the provisions of the RFRA will be upheld unless "the [g]overnment demonstrates that application of the burden to thee person is both in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling government interest".[42]

IV. BALANCING BELIEFS IN BUSINESS: A DIVERSE SOCIETY

The difficulties employers face due to the lack of a clear standard as to what constitutes, and undue hardship is particularly evident in meeting the individualized needs of employees requiring religious accommodations in a country as diverse as America. Employers must navigate a fine line between respecting the Constitution and cultural diversity and safeguarding the company's operational and financial interests, while also recognizing the existence of diversity in the religious practices of their employees.

"The role of religion in the workplace continues to evolve as a result of broader shifts in the American religious landscape."[43] In 1998, there were more than 1,500 primary religious organizations represented in the United States.[44] Since this era, America's population has drastically become more diverse. In fact, 2020 U.S. Census data provides "the diversity index of the total [United States] population was 61.1%, meaning there was a 61.1% chance of two people chosen at random were from different racial or ethnic groups", providing for a 6.2% increase from the 2010

39. KENT SPRINGS, REPRESENTING PLAINTIFFS IN TITLE VII ACTIONS 6-21 (Panel Publishers eds., 2nd ed. 1999).

40. Rosenzweig, *supra* note 8.

41. *Id.*

42. Burwell v. Hobby Lobby Stores, 573 U.S. 682 (2014).

43. Flake, *supra* note 4.

44. Karen C. Cash, et. al., *A Framework for Accommodating Religion and Spirituality in the Workplace*, 14 ACAD. MANAGE J. 124, 124-134 (2000).

census. [45] Many employers struggle to determine what is considered "reasonable" as the need for religious accommodations amongst employees has overwhelmingly increased. In 1997, there were 1,709 charges of religion-based discrimination under Title VII filed with the Equal Employment Opportunity Commission.[46] This number has drastically increased overtime, as the Equal Employment Opportunity Commission has reported 13,814 charges of religion-based discrimination under Title VII.[47] "These broader social patterns mean religion in the workplace looks much different today than just a few years ago [. . .] Increasing religious diversity presents unique challenges in the workplace, as traditional notions of what religion looks like and how it is expressed may no longer be accurate."[48]

V. *GROFF V. DEJOY*: OVERTURNING PRECEDENT

Groff arose from an employment dispute between Petitioner, Gerald Groff, and Respondent, United States Postal Service. Gerald Groff, an Evangelical Christian, held a religious belief that Sunday should be dedicated to "worship and rest, not 'secular labor' and the 'transportation of worldly goods". [49] Initially, Mr. Groff's employment with the United States Postal Service (USPS) as a Rural Carrier Associate did not involve Sunday work. [50] However, changes occurred in 2013 when USPS partnered with Amazon for Sunday deliveries, prompting a memorandum in 2016 outlining how Sunday and holiday parcel delivery would be managed.[51] This memorandum, applicable during non-peak times, classified employees for Sunday work, placing Groff in the third category of carriers compelled to work on a rotating basis.

45. Exploring the Racial and Ethnic Diversity of Various Age Groups, UNITED STATES CENSUS BUREAU (March 5, 2024, 10:11 AM) https://www.census.gov/newsroom/blogs/random-samplings/2023/09/exploring-diversity.html#:~:text=In%202020%2C%20the%20diversity%20index,increased%20between%202010%20and%202020.

46. Religion-Based Charges (Charges filed with EEOC) FY 1997- FY 2022. https://www.eeoc.gov/data/religion-based-charges-charges-filed-eeoc-fy-1997-fy-2022.

47. *Id.*

48. Flake, *supra* note 4.

49. *Id.*

50. *Id.*

51. *Id.*

[52]Unwilling to violate his religious beliefs, Groff sought a transfer to Holtwood, but Amazon deliveries eventually began there as well. [53] Despite USPS making alternative arrangements during peak season and redistributing Groff's Sunday assignments to other carriers, he faced progressive discipline and ultimately resigned in January 2019.[54] He subsequently sued under Title VII, arguing that USPS could have accommodated his Sunday Sabbath practice without undue hardship.[55]

Summary judgment was granted in favor of USPS at the trial court level and was affirmed by the Third Circuit on the grounds that it was "bound by the ruling in *Hardison,* which construed to mean 'that requiring an employer to bear more than a *de minimis* cost to provide a religious accommodation is an undue hardship"[56] The Third Circuit further explained reasoned "[e]xempting Groff from Sunday work [. . .] had imposed on his coworkers, disrupted the workplace and flow, and diminished employee morale."[57] Following the Third Circuit holding, Mr. Groff was granted certiorari and the case was heard at the Supreme Court level.

The Supreme Court's reasoning emphasizes the key statutory term "undue hardship" in the context of accommodation requirements under Title VII. The Court delves into the ordinary meaning of "hardship," elucidating that it implies something challenging and severe, involving suffering, privation, or adversity, which is distinct from a mere burden.[58] The modifier "undue" imposes a higher standard, indicating that the burden must be excessive or unjustifiable. This understanding, the Court argues, differs significantly from a burden that is merely more than *de minimis,* or very small.[59] The Court points to precedents, such as Hardison, where references to "substantial additional costs" align with the interpretation that undue hardship involves

52. Groff, 143 S.Ct. at 2286.

53. *Id.*

54. *Id*. at 2287.

55. *Id.*

56. *Id.* (quoting TWA v. Hardison 432 U.S., at 84, 97 S. Ct. 2264, 53 L.Ed. 2d 113).

57. *Id.* at 2287.

58. *Groff,* 143 S.Ct at 2287.

59. *Id.*

substantial expenditures. Historical considerations, including pre-1972 EEOC decisions, reinforce the idea that accommodations incurring substantial costs were often required.[60] The Court concludes that no factor, including ordinary meaning, EEOC guidelines, or legal history, supports reducing the standard to merely more than *de minimis*, affirming that "undue hardship" should be understood as a substantial and unjustifiable burden, consistent with its ordinary usage.[61]

Here, the supreme court held "that showing 'more than a de minimis cost' as the phrase is used in common parlance, does not suffice to establish 'undue hardship' under Title VII [and] *Hardison* cannot be reduced to that one phrase".[62] In conclusion, the new standard for undue hardship is any religious accommodation that would result in a substantial increased cost in relation to the conduct of [a] particular business. [63] The Supreme Court declined to elaborate further as to what constitutes a substantial increased cost holding that "it [was] appropriate to leave it to the lower courts to apply our clarified context-specific standard, and to decide whether any further factual development is needed."[64]

VI. STRICTER SCRUTINY: THE FUTURE OF UNDUE HARDSHIP

The primary purpose of *Groff* was to clarify the undue hardship standard. In this case, the Supreme Court's interpretation of the undue hardship standard was that in order for an employer to deny an employee's reasonable religious accommodations, the company must provide a showing that the employee's request "would result in substantial increased costs in relation to the conduct of its particular business".[65] However, what the Court in *Groff* did not do, was lay a clear foundation as to what this substantial increased cost standard in relation to undue hardship entails. In his majority opinion, Justice Alito stated "Having clarified the Title VII undue-hardship standard,

60. *Id.* at 2294.
61. *Id.*
62. *Id.* at 2294.
63. *Groff,* 143 S.Ct at 2294.
64. *Id.* at 2297.
65. *Id*. at 2295.

the Court leaves the context-specific application of that clarified standard in this case to the lower courts in the first instance".[66] Thus, while there is a clear and unambiguous definition of what constitutes a "religious accommodation", the recent Supreme Court ruling in *Groff v. DeJoy,* after overturning almost fifty years of precedent, has left employers, yet again, without a clear definition of what exactly constitutes an "undue hardship".[67]

Lacking a defined standard, employers are poised to encounter myriad challenges extending beyond the realm of reasonable accommodation. These challenges encompass the broader implications on daily business operations, the intricate task of navigating simultaneous religious accommodation requests, and considerations regarding employee morale. The demand for employers to establish a substantial increased cost, as emphasized in Groff v. DeJoy, introduces complexity due to the absence of a clear and standardized definition for these incurred costs. The heightened standard may result in further difficulties for employers striving to accommodate diverse religious beliefs, potentially leading to increased litigation as they navigate the evolving legal landscape. In a diverse workplace, employers may grapple with conflicting religious practices among employees, adding strain to the process of conflict resolution while ensuring equitable treatment. This dynamic may pose specific challenges as employers can no longer cite the unwillingness of other employees to swap shifts as justification for their inability to accommodate religious requests. Moreover, these accommodations necessitate careful navigation alongside other employment laws, requiring employers to strike a delicate balance between religious accommodations, time-off requests, and compliance with regulations related to work hours, safety, and dress codes—a delicate equilibrium that may pose challenges and potentially lead to an overwhelming number of legal disputes.

In *Groff,* the Court determined that establishing undue hardship involves a case-specific evaluation, demonstrated when a burden is "substantial in the broader context of the employer's

66. *Id.* at 2279.

67. Referring to the Supreme Court decision in *Trans World Airlines, In. v. Hardison,* which referred to "undue hardship" as "more than a *de minimis* cost"

business".[68] Various factors, including cost, business size and financial resources, business structure, and overall impact, must be weighed when assessing whether an accommodation imposes undue hardship.[69] With the sole clear standard being "more than hypothetical," a lingering question arises regarding the degree of substantial burden required. This shifting legal landscape raises critical considerations for scholars, practitioners, and policymakers immersed in the ongoing discourse on religious accommodations under Title VII. The case-specific nature of this inquiry introduces uncertainty, making it progressively challenging for employers to meet the necessary threshold to justify denying religious accommodations. Furthermore, the Court's prohibition on employers citing tasks like employee shift swaps or overtime work as constituting undue hardship further restricts the grounds for justifying accommodation denials. Given these developments, my perspective suggests that the prevailing trend may lead to a future scenario where, as long as a business remains operational and has a sufficient number of willing employees, there is no substantial increased cost to the employer. Anticipating the evolving landscape of religious accommodations under Title VII, I foresee the Equal Employment Opportunity Commission (EEOC) playing a pivotal role in clarifying the elusive concept of undue hardship. As recent legal developments, such as the *Groff v. DeJoy* ruling, have left the determination of undue hardship to be highly case-specific, there emerges a critical need for a more defined and standardized framework. Given the inherent complexity and variability of each case, I believe that clear guidance from the EEOC that establishes a clear definition of what constitutes undue hardship will aid employers in fostering a more consistent and equitable application of religious accommodations within the workplace and will no longer put employees in the unfortunate situation of choosing employment over religion. In the absence of a clear definition, or jurisprudence, such guidance would not only address the current ambiguity surrounding undue hardship but also serve as a valuable resource

68. *Groff*, 143 S.Ct at 2294.

69. LISA GUERIN, J.D., EMPLOYMENT LAW: THE ESSENTIAL HR DESK REFERENCE 323 (Richard Stim, ed. 1st ed. 2011).

for navigating the nuanced intersection of religious freedoms and employment obligations.

VII. CONCLUSION

In conclusion, the Groff v. DeJoy decision underscores the necessity for a more refined understanding of undue hardship in the context of religious accommodations as employers continue to grapple with this legal mystery.

"It is impossible to discern from Title VII's text alone what Congress meant by 'reasonably accommodate'. The phrasing of the accommodation provision is undoubtedly awkward, perhaps in part because of its placement in the statue's definition of religion rather than the logical 'unlawful employment practices' section."[70]

As history will show, the definition of "undue hardship" to the employer has shifted drastically since its inception in favor of the employee and has created difficulty to employers in discerning how to reasonably accommodate their employee's needs. The multifaceted factors delineated by the Court necessitate careful consideration when evaluating the substantial burden on employers. However, as scholars, practitioners, and policymakers grapple with the ongoing discourse surrounding religious accommodations under Title VII, the lack of a clear standard heightens the challenges faced by employers in justifying denial of such accommodations. The Court's reluctance to define the phrase further underscores the need for a comprehensive framework. Looking ahead, my perspective envisions the EEOC stepping into a crucial role, providing clear guidance to establish a standardized definition of undue hardship. Such clarity would not only aid employers in fostering consistency and equity in religious accommodations but also alleviate the unfortunate dilemma that employees face when forced to choose between their employment and religious beliefs. In the absence of defined parameters, the EEOC's guidance would serve as an invaluable resource, navigating the intricate intersection of religious freedoms and employment obligations.

70. Rosenzweig, *supra* note 8.