## **10.17** **Civil Rights—Title VII—Defense—Undue Hardship in**

## **Religious Accommodation Cases**

**Comment**

Title VII requires employers to make accommodations for an employee’s religious beliefs or practices unless the employer can show that the employee’s religious practice cannot “reasonably” be accommodated without “undue hardship.” The Supreme Court, in *Groff v. DeJoy*, 600 U.S. 447, 468-71 (2023), clarified the standard for undue hardship. Before *Groff*, an employer’s burden to show undue hardship had been, since *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977), understood by lower courts as relieving an employer of providing a religious accommodation if it can show that doing so would impose “more than . . . *de minimis*” cost. *See, e.g.*, *Balint v. Carson City*, 180 F.3d 1047, 1053-54 (9th Cir. 1999). The *Groff* court disavowed that understanding, stating that the “more than a *de minimis* cost” test was a mistaken view of *Hardison*. Rather, the Court explained that an employer must accommodate an employee’s religious beliefs unless it can show that doing so would “result in substantial increased costs in relation to the conduct of” the employer’s business. *Groff*,600 U.S. at 470. Although the Court left it to the lower courts to perform the context-specific application of the clarified standard, it noted two things: (1) “a hardship that is attributable to employee animosity to a particular religion, to religion in general, or to the very notion of accommodating religious practice cannot be considered ‘undue’”; and (2) “Title VII requires that an employer reasonably accommodate an employee's practice of religion, not merely that it assess the reasonableness of a particular possible accommodation or accommodations.” *Id*. at 472-73.