No. 22-174

IN THE

Supreme Court of the United States

GERALD E. GROFF,
Petitioner,

v.

LOUIS DEJOY, POSTMASTER GENERAL
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF OF ASMA T. UDDIN, STEVEN T. COLLIS, AND THE AMERICAN JEWISH COMMITTEE AS AMICI CURIAE IN SUPPORT OF PETITIONER

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QUESTIONS PRESENTED

1. Whether this Court should disapprove the more-than-de-minimis cost test for refusing Title VII religious accommodations stated in *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63 (1977).

2. Whether an employer may demonstrate "undue hardship on the conduct of the employer's business" under Title VII merely by showing that the requested accommodation burdens the employee's co-workers rather than the business itself.

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INTEREST OF *AMICI*

Amici Asma T. Uddin and Steven T. Collis are religious-liberty scholars. Both professors are members of minority religious groups, both have experience practicing employment law, specifically religious-discrimination employment law, and both have an interest in improving the law in this field. Professor Collis is the founding faculty director of The University of Texas's Bech-Loughlin First Amendment Center and its Law & Religion Clinic. Earlier in his career, he was an equity partner at Holland & Hart LLP, where he chaired the firm's nationwide religious institutions and First Amendment practice group and was a member of the firm's employment practice group. Professor Uddin is a Visiting Assistant Professor at Catholic University's Columbus School of Law. Earlier in her career, she practiced as legal counsel at the Becket Fund for Religious Liberty.

The American Jewish Committee is an organization founded in 1906 to serve the interests of the Jewish community worldwide, to ensure the health of democracy, and to protect human rights for all. It supported the adoption of Title VII in 1964 and the 1972 amendments clarifying that Title VII required accommodation of religious practice, and it has consistently sought an interpretation of those provisions which makes the promise of nondiscrimination on the basis of religion real.[1]

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[1] This brief was prepared and funded entirely by *amici* and their counsel. No counsel for a party authored this brief in whole or in part.

SUMMARY OF ARGUMENT

I. *Hardison*'s *de minimis* standard creates a chilling effect for victims of religious discrimination.

A. For too long, debates over the standard declared in *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63 (1977), have ignored the chilling effect the decision has had on victims of religious discrimination. The *de minimis* standard has allowed employers to escape liability and avoid accommodating even the most modest needs of their religious employees, discouraging those employees from bringing claims.

The chilling effect manifested almost immediately after *Hardison*. In the spring of 1978, the EEOC held hearings across the country to address how businesses were accommodating employees' religious needs, especially non-traditional religious needs. Religious leaders testified that in the wake of *Hardison*, members of their congregations had begun to feel that there was no use in filing Title VII claims.

This chilling effect creates perverse results because it harms most the exact religious employees whom the 1972 amendment of Title VII was intended to protect. Congress amended Title VII by adding the "undue hardship" standard primarily to protect religious employees who observed the Sabbath on Saturday, as well as other religious minorities. However, the EEOC hearings showed that Saturday Sabbatarians, such as Seventh-day Adventists, were those *Hardison* most chilled.

B. *Hardison*'s *de minimis* standard also discourages attorneys from taking up religious accommodation cases. Once again, this chilling effect arose immediately after *Hardison*. Religious leaders at the 1978

EEOC hearings testified that churches found it increasingly difficult to find attorneys willing to represent congregants facing workplace religious discrimination.

This trend is not surprising. Objective studies show that contingency fee lawyers are likely to refuse cases if they doubt a court will hold a defendant liable or if the case is of low value. The situation, difficult for many would-be plaintiffs, is even worse for victims of employment discrimination: lawyers only accept about 5% of those cases.

Discouraging advocacy on behalf of victims of religious discrimination is antithetical to Congress's intent in passing the Civil Rights Act. Congress included a fee-shifting provision in Title VII authorizing courts to make a liable employer pay the employee's attorney's fees. It intended to encourage the private enforcement of Title VII, incentivizing attorneys to take on meritorious religious accommodation cases.

Hardison's *de minimis* standard contradicts Congress's intent by discouraging attorneys from representing religious employees because attorneys believe their clients cannot win and because defendants can collect attorney's fees from plaintiffs if a court deems a claim "unreasonable." Given the body of precedent under *Hardison* denying Sabbatarian and other religious accommodations, the risk that a court may deem a claim "unreasonable" further chills both attorneys and victims.

C. Despite assumptions made by some, research shows that victims of religious discrimination rarely win under *Hardison*'s *de minimis* standard. Per the text of Title VII, failure to accommodate comprises

one species of unlawful religious discrimination. Yet in the 114 religious accommodation cases in which the U.S. Courts of Appeals have expressly applied *Hardison*, victims of religious discrimination lost 69% of the time.

This burden has particularly fallen upon Saturday Sabbatarians. They make up the vast majority of Sabbath-related accommodation requests, since their belief that Saturday is the Sabbath and not for work is unusual in American culture.

The low success rates for victims of religious discrimination are especially troubling because many other pressures lead victims to remain silent. Religious employees often feel pressure to avoid causing trouble or risking retaliation, and religious immigrants are especially likely to quietly endure religious discrimination.

Victims remain silent even though religious discrimination remains a feature of the American workplace. But even before the EEOC, victims of religious discrimination are unlikely to succeed in their claims.

Hardison's *de minimis* standard, coupled with other pressures against reporting workplace discrimination, gives victims far more reasons to remain silent than vindicate their Title VII rights.

II. *Hardison* burdens religious minorities most.

Members of minority religions are most likely to need religious accommodations but are unlikely to receive them. Because workplace policies tend to reflect the views of the cultural majority, religious minorities seek workplace accommodations more frequently than members of majoritarian religions. Research shows that members of minority faiths that together

comprise only 5 or 6% of the U.S. population bring over 65% of religious accommodation claims in U.S. courts. Because claims fail so easily under *Hardison*, those claimants lost in two-thirds of the cases that landed in the U.S. Courts of Appeals.

Religious minorities also tend to suffer from disadvantages that make vindicating their rights more difficult. Members of certain minority religions tend to be poor or immigrants. They find few coreligionists among practicing attorneys. Some minority religious groups face tangible social animus in the general population, which discourages members from seeking recourse in the legal system.

Members of minority religions are also especially harmed by the interpretation of the *Hardison* standard that allows an employer to establish undue hardship by showing a burden on the victim's coworkers. This interpretation conditions religious accommodations on social acceptance, subjecting unpopular minority religions to a heckler's veto. One coworker's anti-Muslim bias could be used to deny a request for reasonable accommodations, further stripping disfavored minorities of Title VII protection.

III. Providing greater protections for religious minorities will not come at the expense of American businesses.

Thawing the *Hardison* chilling effect will not result in a flood of expensive claims that harm American businesses. The Americans with Disabilities Act contains the same requirement that an employer must make reasonable accommodations for disabled employees unless doing so would impose an "undue

hardship" on the employer's business. However, under the ADA, "undue hardship" is defined as "an action requiring significant difficulty or expense." The ADA's undue hardship standard has not caused an unmanageable strain on businesses, and a higher standard for employers under Title VII would have similar results.

Many of the workplace religious accommodations currently denied under *Hardison* would impose minimal costs on employers. In several cases, the requested accommodations would have caused only minor financial costs, adjustments to break schedules, or minimal impacts on employee morale. Courts still denied them under the *de minimis* standard. In contrast, employers regularly grant similar accommodations under the ADA and businesses continue to thrive.

Instead of harming businesses, increased religious accommodations will benefit both employees and employers. Studies show that providing employee accommodations saves employers money in benefits and improves employee retention, morale, and productivity. Providing religious accommodations also ensures that businesses retain the benefits of religious employees' diverse points of view. As a result, many employers, including several Fortune 500 businesses, already recognize the gains from accommodating religious employees. This is not a zero-sum game. Rejecting *Hardison*'s *de minimis* standard would benefit all parties involved and restore the nation's commitment to religious diversity.

ARGUMENT

Title VII demands that an employer "reasonably accommodate" employees' religious practices unless the employer demonstrates that doing so would impose an "undue hardship" on the employer's business. 42 U.S.C. § 2000e(j). The *Hardison* Court declared that an employer faces an "undue hardship" any time an accommodation would cause "more than a *de minimis* cost." 432 U.S. at 84.

This Court is well aware of the criticism *Hardison* has faced over the decades. It began with Justice Thurgood Marshall noting in dissent that the Court's interpretation of "undue hardship" erodes "one of this Nation's pillars of strength—our hospitality to religious diversity." *Id.* at 97 (Marshall, J., dissenting). He concluded, "All Americans will be a little poorer until today's decision is erased." *Id.* In the years since *Hardison*, its critics have been vocal and consistent.

This brief does not seek to add to the well-established arguments that the *Hardison* interpretation is atextual, inconsistent with similar language in contemporary statutes, based on a flawed understanding of the Establishment Clause, and grounded in misguided fears of religious favoritism. All these arguments are true, the Court has heard them before, and it will no doubt hear them again in this case.

This brief instead will provide further evidence that Justice Marshall's initial fears were correct: *Hardison* has been devastating to religious minorities in the workplace. *Id.* at 87. For too long, the ruling has distorted the behavior of victims of religious discrimination: discouraging them first from seeking accom-

modations in the workplace and then from vindicating their rights in court. It is time to return to Congress's vision for protecting "our hospitality to religious diversity." *Id.* at 97.

I. *Hardison*'s *De Minimis* Standard Creates a Chilling Effect for Victims of Religious Discrimination

A. *Hardison*'s *De Minimis* Standard Chills Victims of Religious Discrimination from Attempting to Vindicate Their Rights

Hardison has allowed many employers to escape liability and avoid accommodating even the most modest religious needs of their employees.

As the petition for certiorari explained, employers have used *Hardison*'s *de minimis* standard to avoid granting religious employees' requests for reasonable accommodations. Petition for Writ of Certiorari at 25–26, *Groff v. DeJoy*, No. 22-174 (U.S. Aug. 23, 2022). If an employer can show that the religious accommodation will cause the smallest inconvenience, the employer need not grant it. The reality is that victims of religious discrimination do not just lose at the courthouse; they are chilled from seeking accommodations at every step.

This chilling effect manifested almost immediately after *Hardison*. In the spring of 1978, prompted by what it called the "troubling" *Hardison* decision, the EEOC held hearings in New York, Los Angeles, and Milwaukee to address how businesses were (or were not) accommodating employees' religious needs. *Hearings Before the U.S. Equal Emp. Opportunity Comm'n on Religious Accommodation*, 95th Cong. 1

(1978) [hereinafter *Hearings on Religious Accommodations*]. The EEOC was particularly concerned with "those with non-traditional religious needs." *Id.*

During the hearings, religious leaders reflected on *Hardison*'s chilling effect on victims of workplace religious discrimination. *Id.* at 29–30, 41. W. Melvin Adams, a representative of the Seventh-day Adventist Church, observed that "*Hardison* hit us like an earthquake." *Id.* at 29. Following *Hardison*, many Seventh-day Adventists decided that filing Title VII claims was not even worth the time. *Id.* at 29–30. Adams explained, "[W]e have to realize that many of our people feel that this is just something that has to be endured and neither file charges and many times do not even take time to go through [an] EEOC report to the church." *Id.* Gordon Engen, another Seventh-day Adventist representative, echoed Adams's remarks, noting that "[a] number of people have just said[,] 'well there is no use in filing a charge,' and so it has had a chilling effect, I would think, on the charges that have actually been filed since that time." *Id.* at 41.

The EEOC hearings demonstrated that *Hardison* had a particularly strong chilling effect on Sabbatarians—precisely the religious employees that provided the immediate impetus for the 1972 amendments. As enacted in 1964, Title VII did not include an "undue hardship" standard. *See* Civil Rights Act of 1964, Pub. L. 88-352, § 703, 78 Stat. 241, 255–57 (codified as amended at 42 U.S.C. § 2000e) (making no mention of undue hardship). All it said was that employers could not discharge or otherwise discriminate against employees with respect to religion. *Id.* § 703(a)(1). The

law did not specify what constituted religious discrimination or whether employers needed to accommodate religious practices at all.

Under Title VII as enacted in 1964, employers could completely ignore the Saturday Sabbath observance of some of their employees. In 1966, the EEOC published guidelines indicating that an employer was "free under Title VII to establish a normal workweek . . . generally applicable to all employees, notwithstanding that this schedule may not operate with uniformity in its effects upon the religious observances of his employees." Guidelines on Discrimination Because of Religion, 29 C.F.R. § 1605.1 (1980) (codifying the 1966 guidelines). The EEOC explained that "an employer who is closed for business on Sunday does not discriminate merely because he requires that all his employees be available for work on Saturday." *Id.*

Senator Jennings Randolph (D-WV), the sponsor of the 1972 amendments to Title VII, was a practicing Seventh Day Baptist—a denomination that observed the Sabbath on Saturdays. 118 CONG. REC. 705 (1972) (statement of Sen. Jennings Randolph). According to Senator Randolph, there were just 5,000 Seventh Day Baptists in the workforce. *Id.* Senator Randolph noted that, under then-current law, "there ha[d] been a partial refusal . . . on the part of employers to hire or to continue in employment employees whose religious practices rigidly require them to abstain from work in the nature of hire on particular days." *Id.*

In short, the 1972 amendments to Title VII were meant to protect people, like Senator Randolph and many others, whose religious practices were not being accommodated by employers. Yet just eight years

later, at the EEOC hearings, Seventh-day Adventists testified that because of *Hardison*, it was no longer worth bringing claims under Title VII. *Hardison* had an immediate chilling effect on the very people the 1972 amendments sought to protect.

B. The *Hardison* Standard Discourages Attorneys from Representing Victims of Religious Discrimination

Victims of workplace religious discrimination are not the only people who refuse to come forward. Employment lawyers, who know that *Hardison*'s *de minimis* standard stacked the deck against victims of religious discrimination, are discouraged from taking up religious accommodation cases.

Again, this downstream effect of *Hardison* was felt almost immediately after the decision was issued. During the EEOC hearings in 1978, Ralph K. Helge, general counsel for the Worldwide Church of God, testified that the church found it increasingly difficult to find attorneys willing to represent congregants facing religious discrimination in the workplace. *Hearings on Religious Accommodations*, *supra*, at 146, 149. Helge explained how a conversation with a potential lawyer typically went post-*Hardison*:

> We call the attorneys, "Look can you represent this man on a contingency fee basis? You will get one-third of what is collected." At first they were willing to do this. Now, we begin to find, after *Hardison*, they look the case over and, rightfully, they say, "Look, pal, you just don't have too much of a case. I have to back out of it." So, it is hard to find representation.

Id. at 149.

This response is troubling, but not surprising. Plaintiffs' lawyers often work on a contingency fee basis. Most employees cannot afford to pay attorneys by the hour, so the contingency model is the only way they can find representation. Rachel H. Yarkon, Note, *Bargaining in the Shadow of Lawyers: Negotiated Settlement of Gender Discrimination Claims Arising from Termination of Employment*, 2 HARV. NEGOTIATION L. REV. 165, 183 (1997). Contingency fee lawyers must feel confident they can recover damages commensurate with the hours required to pursue the case. In the case of religious accommodations, the problem is magnified. Often, employees suffer non-pecuniary injuries and seek only injunctive relief, making attracting an attorney even more difficult.

Studies bear this out. In a study of all contingency fee lawyers in Wisconsin, Professor Herbert Kritzer found that, on average, would-be clients seeking representation had only a 34% chance of getting a contingency fee lawyer to take their cases. Herbert M. Kritzer, *Seven Dogged Myths Concerning Contingency Fees*, 80 WASH. U. L.Q. 739, 755 (2002). When Kritzer asked the lawyers why they turned down cases, he found that the primary reason involved concerns about liability. *Id.* at 756. Contingency fee lawyers reject matters when they doubt defendants will be held liable. Studies have also observed that lawyers frequently turn down low-value cases. *See* Stephen Daniels & Joanne Martin, *It Was the Best of Times, It Was the Worst of Times: The Precarious Nature of Plaintiffs' Practice in Texas*, 80 TEX. L. REV. 1781, 1786, 1789 (2002) (finding that contingency fee lawyers in Texas accepted between 26.8% and 35.1% of cases worth less than $200,000).

The situation is noticeably worse for victims of employment discrimination. Plaintiff-side lawyers accept an average of only 5% of those cases. William M. Howard, *Arbitrating Claims of Employment Discrimination: What Really Does Happen? What Really Should Happen?*, DISP. RESOL. J., Oct.–Dec. 1995, at 40, 44. "In other words, 19 out of every 20 employees who feel that they have an employment discrimination claim against an employer are unable to obtain the representation of an attorney to pursue that claim in court." *Id.* (emphasis omitted).

Discouraging advocacy on behalf of victims of religious discrimination is antithetical to Congress's intent in passing the Civil Rights Act. Congress included a fee-shifting provision in Title VII under which "the court, in its discretion, may allow the prevailing party, other than the [EEOC] or the United States, a reasonable attorney's fee . . . as part of the costs." 42 U.S.C. § 2000e-5(k). The provision authorizes courts to make an employer pay the employee's attorney's fees should the employer be found liable in a religious accommodation case.

Fee-shifting serves specific ends. It encourages potential plaintiffs to come forward to file meritorious claims. STEVEN SHAVELL, FOUNDATIONS OF ECONOMIC ANALYSIS OF LAW 428 (2004). As this Court has noted of the Civil Rights Attorney's Fees Award Act of 1976, which is functionally identical to Title VII's fee-shifting provision, "[I]t is undoubtedly true that Congress expected fee shifting to attract competent counsel to represent citizens deprived of their civil rights . . . ." *Evans v. Jeff D.*, 475 U.S. 717, 731 (1986).

Congress similarly intended to encourage the enforcement of Title VII through private litigation. Attorneys are incentivized to take on meritorious religious accommodation cases and advocate vigorously without worrying about their clients' capacity to pay them. *Hardison*'s *de minimis* standard is thus antithetical to Congress's intent because *Hardison* has discouraged attorneys from representing victims of religious discrimination—precisely the opposite result of what the fee-shifting provision of Title VII was meant to accomplish.

C. Victims of Religious Discrimination Rarely Win Under the *Hardison* Standard

There is a temptation to assume, as some have, that victims of religious discrimination are winning enough under the *Hardison* standard and no chilling effect is occurring. Reality defeats that assumption.

Since *Hardison*, the U.S. Courts of Appeals have expressly applied it in 114 cases involving religious accommodations under Title VII (a paltry number consistent with the chilling effect). *See* Appendix. Victims of religious discrimination won accommodations in 23 of those cases—just 20%. *Id.* Just over 60% of the cases involved accommodations regarding Sabbath days. *Id.* Of those, just 13 succeeded. *Id.* In other words, four out of every five victims who sought judicial relief to practice their religious faith on their Sabbath day were denied an accommodation. This is concerning because it is likely these were the cases where the facts were egregious enough to overcome the *Hardison* chilling effect. It is doubly concerning given that the lack of accommodations for Sabbath observance was one of the driving forces behind the amendment

of Title VII to include the undue hardship standard. *See supra* subpart I(A).

A closer look reveals that *Hardison*'s *de minimis* standard particularly burdens one group of religious people. Half of all victims of religious discrimination in these cases were Seventh-day Adventists, members of the Worldwide Church of God (or its successors, the Living Church of God and the United Church of God), or Orthodox Jews. *See* Appendix. These groups believe that Saturday is the Sabbath and that they must not work on that day. This is unusual among most Christians and Americans, who believe that either Sunday is the Sabbath, there is no Sabbath day, or there is no religious prohibition against working on the Sabbath. In a culture where the dominant position is that anything goes on Saturdays, these Saturday Sabbatarians often require accommodations from their employers to avoid working on their Sabbath. But because their beliefs are unusual, they are more likely to face reluctance at best and hostility at worst.

The low success rates for victims of religious discrimination are especially troubling in light of other pressures that lead victims to remain silent. In 2016, the Department of Justice's Civil Rights Division convened several roundtable discussions with religious leaders, civil rights groups, and community members from various backgrounds to assess the current state of religious discrimination. U.S. DEP'T OF JUST., COMBATTING RELIGIOUS DISCRIMINATION TODAY: FINAL REPORT 2 (2016). The resulting DOJ study found that victims of religious discrimination are pressured to remain silent for fear of "caus[ing] trouble" or risking retaliation from their employers. *Id.* at 17–18. Some religious employees simply do not know how to file

complaints. *Id.* Unsurprisingly, the study concluded that religion-based employment discrimination was being "underreport[ed]." *Id.* at 17.

Similarly, in written testimony before the EEOC in 2012, legal scholar Sahar Aziz explained that the tendency to quietly endure workplace religious discrimination is prevalent among practicing religious immigrants, many of whom come from countries that do not have laws providing for religious accommodations in the workplace. Sahar F. Aziz, *Written Testimony of Sahar Aziz, Texas Wesleyan School of Law*, U.S. EQUAL EMP. OPPORTUNITY COMM'N (July 18, 2012), https://www.eeoc.gov/meetings/meeting-july-18-2012-public-input-development-eeocs-strategic-enforcement-plan/aziz. Religious employees are already reluctant to speak out about discrimination, and *Hardison* only further disincentivizes seeking legal recourse.

Nor does the EEOC suffice to enforce these protections, as victims rarely succeed before the agency. *Religion-Based Charges (Charges Filed with EEOC) FY1997–FY2021*, EQUAL EMP. OPPORTUNITY COMM'N, https://www.eeoc.gov/data/religion-based-charges-charges-filed-eeoc-fy-1997-fy-2021. In 2021, for instance, the EEOC resolved just 15.1% of religious discrimination claims in the claimant's favor on the merits. *Id.* In 2017, that number was only 12.9 percent. Sex-based claims, for reference, received such treatment in 21.7% of charges in 2021, and 17.0% in 2017. *See Sex-Based Charges (Charges Filed with EEOC) FY1997–FY2021*, EQUAL EMP. OPPORTUNITY COMM'N, https://www.eeoc.gov/data/sex-based-charges-charges-filed-eeoc-fy-1997-fy-2021

Thus is the landscape of religious accommodations post-*Hardison*. *Hardison*'s *de minimis* standard, coupled with the pressures surrounding reporting instances of abuse, gives victims of religious discrimination far more reasons to remain silent than to vindicate their rights under Title VII.

II. Religious Minorities Are Particularly Burdened by *Hardison*

Because their beliefs are most at odds with the culture around them, employees who belong to minority religions are the most likely to require religious accommodations, so *Hardison*'s chilling effect has an outsized effect on them.

First, members of minority religions are most likely to need religious accommodations. Because facially neutral workplace policies tend to reflect the views of the cultural majority, they will disproportionally affect religious minorities. This is not a new revelation. Congress amended Title VII in recognition of this fact. *See* 118 CONG. REC. 705–06 (1972) (statement of Sen. Jennings Randolph) (observing that employers' discriminatory hiring and retention practices had put "pressure" on religious sects "not large in membership").

Cases confirm that religious minorities seek workplace accommodations more frequently than members of majoritarian religions. One study of the twenty-year period ending in 2020 found that religious accommodation claims were overwhelmingly brought by people of minority faiths. Brief Amicus Curiae of Christian Legal Society et al. In Support of Petitioner at 15–16, *Dalberiste v. GLE Assocs., Inc.*, 141 S. Ct. 2463 (2021) (No. 19-1461) [hereinafter Brief of

Christian Legal Society] (analyzing cases decided on summary judgment motions concerning undue hardship). Sixty-nine percent of these claims were brought by members of minority religious groups. *See id.* Those religious groups together constitute less than 5% of the U.S. population—Muslims, Jews, Hebrew Israelites, Jehovah's Witnesses, Seventh-day Adventists, Sabbatarian Christians, Pentecostal Christians, Rastafarians, Sikhs, and members of African religions. *See id.* at 15; *Religious Landscape Study: Religions*, PEW RSCH. CTR. (2014), https://www.pewresearch.org/religion/religious-landscape-study. American Muslims constitute less than 1% of the U.S. population, but they constituted 18.6% of these accommodation cases. *Religious Landscape Study: Religions*, *supra*; Brief of Christian Legal Society, *supra*, at 16. Seventh-day Adventists constitute 0.5% of the U.S. population but 22% of the sample. *Religious Landscape Study: Religions*, *supra*; Brief Amicus Curiae of Christian Legal Society, *supra*, at 15.

Despite being most in need of religious accommodations, members of minority religions are not likely to obtain them because of *Hardison*'s *de minimis* standard. These employees ask for small accommodations, but their pleas are swiftly blocked by minimal showings of hardship. For example, a Sikh man's application for a managerial position was denied because of the potential for an "[a]dverse customer reaction" to "bearded people." *EEOC v. Sambo's of Ga., Inc.*, 530 F. Supp. 86, 88–90 (N.D. Ga. 1981) (denying accommodation). A Muslim employee's request to attend Friday prayer services was denied on the grounds that paying just two hours of overtime was an "undue burden" on the employer. *El-Amin v. First*

Transit, Inc., 2005 WL 1118175, at *8 (S.D. Ohio May 11, 2005).

The data in the Appendix shows *Hardison*'s disproportionate impact on religious minorities. Members of religious minority groups, which together comprise less than 6% of the American population, brought more than 66% of the accommodation cases post-*Hardison*. *See* Appendix; *Religious Landscape Study: Religions*, *supra*. However, they were denied accommodations in two-thirds of those cases. *See* Appendix.

Second, many members of minority religions suffer from disadvantages that make vindicating their rights more difficult. For one, some minority religions are disproportionately under-resourced. For example, as of 2014, 48% of Jehovah's Witnesses had a household income under $30,000. *Religious Landscape Study: Income Distribution*, PEW RSCH. CTR. (2014), https://www.pewresearch.org/religion/religious-landscape-study/income-distribution. However, Jehovah's Witnesses frequently need religious accommodations. *See, e.g.*, *Weber v. Roadway Exp., Inc.*, 199 F.3d 270, 273 (5th Cir. 2000) (denying a Jehovah's Witness trucker an accommodation to avoid overnight trips with a female trucker).

Many religious minorities tend to be immigrants: 87% of U.S. Hindus are immigrants, as well as 64% of U.S. Muslims. *Religious Landscape Study: Immigrant Status*, PEW RSCH. CTR. (2014), https://www.pewresearch.org/religion/religious-landscape-study/immigrant-status. These groups also frequently require accommodations. *See, e.g.*, *Webb v. City of Philadelphia*, 562 F.3d 256, 258, 261 (3d Cir. 2009) (denying a Muslim employee an accommodation to wear a headscarf).

Religious minorities are also less likely to seek legal vindication of their rights because of tangible social animus. A 2017 poll found that half of U.S. adults believe that Islam does not have a place in "mainstream American society." ASMA T. UDDIN, WHEN ISLAM IS NOT A RELIGION 43 (2019). A survey by the Pew Research Center found that almost half of U.S. adults believe that some American Muslims are anti-American. *Id.* While Christianity is viewed favorably by 51% of American adults and unfavorably by only 18%, for Sikhism those numbers are flipped: 20% viewing unfavorably compared to 12% favorably. *Americans' Views on 35 Religious Groups, Organizations, and Belief Systems*, YouGov (Dec. 23, 2022), https://today.yougov.com/topics/society/articles-reports/2022/12/23/americans-views-religious-groups-yougov-poll. And a 2023 study found that more than one out of seven Americans believe that is "mostly or somewhat true" that "Jews have a lot of irritating faults," "Jews are not warm and friendly," or "Jews are not as honest as other businesspeople." ADL CENTER FOR ANTISEMITISM RESEARCH, ANTISEMITIC ATTITUDES IN AMERICA: TOPLINE FINDINGS FREEDOM & BUS. FOUND., MEASURING THE FORTUNE 500'S COMMITMENT TO WORKPLACE RELIGIOUS INCLUSION 5 (2023), https://www.adl.org/sites/default/files/pdfs/2023-02/antisemitic-attitudes-in-america-topline-findings.pdf. Of course, ensuring that such discriminatory attitudes do not result in disfavored treatment in the workplace is precisely the point of laws like Title VII.

All of this paints a stark picture of reality: although religious minorities are the most likely to need religious accommodations, they are the least likely to be able to pursue them.

Finally, despite Title VII's requirement that an employer show "undue hardship on the conduct of the employer's business," 42 U.S.C. § 2000e(j), courts have interpreted the *Hardison* standard to hold that an employer can establish undue hardship merely by showing that an accommodation burdens the victim's coworkers, *see* Petition for Writ of Certiorari at 27, *Groff v. DeJoy*, No. 22-174 (U.S. Aug. 23, 2022) (explaining this corollary). Under this interpretation, an employer can win by demonstrating coworkers' resentment without showing any actual impairment to business operations. Unsurprisingly, the harms of an animus-based heckler's veto fall especially hard on unpopular religious minorities.

The *Hardison de minimis* standard, chilling effect, and burden-on-coworkers corollary disproportionately impact those most in need of Title VII protection: disfavored and under-resourced religious minorities. For these victims of religious discrimination, Title VII is neither "protect[ing] their religious freedom," nor "their opportunity to earn a livelihood within the American system." 118 CONG. REC. 706 (1972) (statement of Sen. Jennings Randolph).

III. Providing Benefits to Religious Minorities Will Not Come at the Expense of American Businesses

Rejecting the *Hardison* standard and thawing its chilling effect will not result in a flood of expensive claims that injure American businesses. In fact, this Court should expect that increased religious accommodations in the workplace will help American businesses, in the same way that disability accommodations maximize the value of disabled employees. *See* Tatiana I. Solovieva et al., *Employer Benefits from*

Making Workplace Accommodations, 4 DISABILITY & HEALTH J. 39, 44 (2011).

Consider how courts have construed the language of "undue hardship" under *Hardison* versus under the Americans with Disabilities Act. Like Title VII's religious accommodation provision, the ADA requires an employer to make "reasonable accommodations" for its disabled employees unless doing so will impose an "undue hardship" on the employer's business. 42 U.S.C. § 12112(b)(5)(A). But under the ADA, in stark contrast to *Hardison*, "undue hardship" is defined as "an action requiring significant difficulty or expense." *Id.* § 12111(10). In determining whether an accommodation would impose an undue hardship, courts consider an accommodation's cost, the employer's financial resources, and how the accommodation might impact the employer's business. *Id.* Thus, under the ADA's higher standard, a more-than-*de-minimis* cost for an accommodation can still be far from an undue hardship when considered against the bottom line of a huge, multinational corporation.

The ADA's broader understanding of "undue hardship" has not caused an unmanageable strain on employers, and this Court can expect similar results in the context of religious accommodations if *Hardison*'s *de minimis* standard is finally abandoned. A few examples are illustrative.

Many of the accommodations denied to religious employees under *Hardison* would impose only minimal costs on businesses. For example, one court held that paying two hours of overtime to a bus operator would be an undue hardship for a nationwide transit company. *El-Amin v. First Transit, Inc.*, 2005 WL 1118175, at *8 (S.D. Ohio May 11, 2005). In today's

dollars, that is around $50–$60. *See Bus Driver Salary in Texas*, INDEED (Jan. 30, 2023), https://www.indeed.com/career/bus-driver/salaries/TX. Another court held that paying $1,500 per year in benefits costs was an undue hardship for the Chrysler Corporation. *Cook v. Chrysler Corp.*, 981 F.2d 336, 339 (8th Cir. 1992). Two months before that decision, Chrysler posted a $202 million quarterly profit. Doron P. Levin, *Chrysler's Surprising Profits*, N.Y. TIMES (Oct. 21, 1992), https://www.nytimes.com/1992/10/21/business/chrysler-s-surprising-profits.html. These accommodations were far from backbreaking expenses for these businesses, but they were denied under *Hardison*. In contrast, courts correctly ruled that similar accommodations were nothing more than minor inconveniences under the ADA's stricter undue hardship test. *See Searls v. Johns Hopkins Hosp.*, 158 F. Supp. 3d 427, 438–39 (D. Md. 2016) (finding that an accommodation that cost 0.007% of the employer's total budget would not be an undue hardship).

This pattern extends to employee break schedules. The break accommodations that religious employees are denied under Title VII, and that disabled employees receive under the ADA, are not onerous on employers. Per EEOC guidance under the ADA, allowing a diabetic employee to take brief snack breaks is a reasonable accommodation. *Spiteri v. AT&T Holdings, Inc.*, 40 F. Supp. 3d 869, 878 (E.D. Mich. 2014). Under *Hardison*, however, altering a meal break schedule to accommodate Muslim employees during Ramadan—when adherents may fast up to eighteen hours per day—can be an undue hardship if other employees are upset by the schedule change. *EEOC v. JBS USA, LLC*, 339 F. Supp. 3d 1135, 1182 (D. Colo. 2018).

Finally, there is employee morale. The EEOC, recognizing that minor impacts to employee morale do not significantly strain a business, states in its enforcement guidance that ADA undue hardship defenses cannot "be based on the fact that provision of a reasonable accommodation might have a negative impact on the morale of other employees" or employee "prejudices toward" disabilities. 29 C.F.R. app. § 1630.15(d) (2012). By contrast, in many cases under *Hardison*, including the proceedings below in this case, showing "reduced employee morale" associated with a religious accommodation is enough for an employer to meet the *de minimis* standard. *Groff v. DeJoy*, 35 F.4th 162, 174–75 (3d Cir. 2022).

Because the ADA's undue hardship standard is calibrated at a reasonable level that does not strain employers, pro-business organizations recognize the value of the law. *See* Brief for the Chamber of Commerce of the United States of America et al. as Amici Curiae In Support of Petitioner at 5, *Acheson Hotels, LLC v. Laufer*, No. 22-429 (U.S. Dec. 8, 2022) ("*Amici* and businesses nationwide support [the ADA's] anti-discrimination principle and have adopted robust accessibility programs."). The Chamber of Commerce even touts the benefits of disability accommodations on its website. Sean Peek, *What Is the ADA, and How Does It Impact Small Business?*, U.S. CHAMBER OF COM. (Apr. 26, 2019), https://www.uschamber.com/co/start/strategy/ada-small-business-compliance.

These favorable opinions of accommodations are well-founded. One study by the federal government found that for every dollar spent on employee accommodations, employers saved $50 in benefits. Michael

Ashley Stein, *The Law and Economics of Disability Accommodations*, 53 DUKE L.J. 79, 104 (2003). This result is unsurprising, given that many accommodations that religious or disabled employees seek cost employers little to nothing. An examination of accommodations at Sears, Roebuck & Co. between 1978 and 1997 found that over 70% of accommodations required no costs to Sears, and the majority of those that required company expenditures cost less than $100. *Id.* at 103.

The business benefits of accommodations go beyond the quantifiable. One survey conducted in consultation with the Department of Labor sampled employees across a variety of business sizes and industries and found that strong majorities of employees, supervisors, and managers agreed that disability accommodations bolster employee retention, morale, and productivity. Lisa Schur et al., *Accommodating Employees With and Without Disabilities*, 53 HUM. RES. MGMT. 593, 613 (2014). In another survey conducted across businesses ranging from 5 to 45,000 employees, 91% of employers reported that providing an accommodation led to the retention of a qualified employee and 71% reported that providing an accommodation increased an accommodated employee's productivity. Solovieva et al., *supra*, at 43.

In addition, religious accommodations likely bring some unique benefits. As discussed in Part II, *supra*, the *Hardison* chilling effect is worse for members of minority religions, sometimes forcing those individuals to choose between their livelihood and their beliefs. However, potentially depriving businesses of the diverse viewpoints that religious minorities hold may

have dire downstream consequences for business performance. A study of venture capital teams concluded that homogenous teams have markedly worse outcomes than their diverse counterparts. Paul Gompers & Silpa Kovvali, *The Other Diversity Dividend*, HARV. BUS. REV. (July 2018), https://hbr.org/2018/07/the-other-diversity-dividend.

For these reasons, many employers already recognize the gains from accommodating religious employees. Name brands such as American Airlines, Intel, Target, and American Express are among the many Fortune 500 businesses that achieve perfect scores for religious accommodations on the Religious Freedom & Business Foundation's Religious Equity, Diversity & Inclusion (REDI) Index. RELIGIOUS FREEDOM & BUS. FOUND., MEASURING THE FORTUNE 500'S COMMITMENT TO WORKPLACE RELIGIOUS INCLUSION 3, 6 (2022), https://religiousfreedomandbusiness.org/wp-content/uploads/2022/05/2022-REDI-INDEX-REPORT.pdf.

This is not a zero-sum game. Replacing *Hardison*'s *de minimis* standard would benefit both religious employees and the businesses that employ them. Thus, this Court should not fear economic repercussions if it restores Title VII's definition of "undue hardship" to its proper meaning. To the contrary, doing so would fully restore "one of this Nation's pillars of strength—our hospitality to religious diversity." *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 97 (1977) (Marshall, J., dissenting).

CONCLUSION

The Court should reverse the judgment below, overrule *Hardison*'s interpretation of "undue hardship," and remand the case for consideration in light of the true meaning of that standard.

Respectfully submitted,

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APPENDIX

APPENDIX

Table of U.S. Circuit Court of Appeals Decisions Directly Invoking *Hardison*

The table that follows lists the 114 cases where the United States Courts of Appeals have expressly invoked Hardison while resolving a religious accommodation claim. The table includes the case name and citation, the requested accommodation, whether the court of appeals granted the accommodation, and the religion of the plaintiff.

Case	Accommodation requested	Granted	Religion
EEOC v Walmart Stores E., 992 F.3d 656 (7th Cir. 2021)	Not working on Saturdays	No	Seventh-day Adventist
Obregon v Cap. Quarries Co., 833 F. App'x 447 (8th Cir. 2021)	Not working on Saturdays	No	Sabbath Keeper
Jean-Pierre v Naples Cmty. Hosp., 817 F. App'x. 822 (11th Cir. 2020)	Not working on Saturdays	No	Seventh-day Adventist
Dalberiste v GLE Assoc., 814 F. App'x 495 (11th Cir. 2020)	Not working on Saturdays	No	Seventh-day Adventist

Case	Accommodation requested	Granted	Religion
Small v Memphis Light, Gas and Water, 952 F.3d 821 (6th Cir. 2020)	Not working on certain days due to religious commitments	No	Jehovah's Witness
Walker v Indian River Transp. Co, 741 F. App'x 740 (11th Cir. 2018)	Not working on Sundays	No	Jehovah's Witness
Patterson v Walgreen, 727 F. App'x 581 (11th Cir. 2018)	Not working on Saturdays	No	Seventh-day Adventist
Tabura v Kellogg USA, 880 F.3d 544 (10th Cir. 2018)	Not working on Saturdays	N/a	Seventh-day Adventist
EEOC v Consol Energy Inc., 860 F.3d 131 (4th Cir. 2017)	Not using a biometric hand scanner	Yes	Evangelical Christian
Winchester v Wal-Mart Stores Inc, 2017 WL 11489879 (6th Cir. 2017)	Not working on Sundays	Yes	Evangelical Christian
Doughty v DDS, 607 F. App'x 97 (2nd Cir. 2015)	Not working on Sundays	No	Evangelical Christian

Case	Accommodation requested	Granted	Religion
Davis v Fort Bend Cnty., 765 F.3d 480 (5th Cir. 2014)	Have a specific Sunday off for religious observance	N/a	Evangelical Christian
Tagore v U.S., 735 F.3d 324 (5th Cir. 2013)	Wearing a ceremonial religious sword	No	Sikh
EEOC v Abercrombie & Fitch Stores, 731 F.3d 1106 (10th Cir. 2013)	Wearing a religious head covering	No	Muslim
Adeyeye v Heartland Sweeteners, LLC, 721 F.3d 444 (7th Cir. 2013)	Unpaid leave to lead his father's burial ceremonies	N/a	African Christian
Antoine v First Student, Inc., 713 F.3d 824 (5th Cir. 2013)	Not working on Saturdays	N/a	Seventh-day Adventist
Porter v City of Chicago, 700 F.3d 944 (7th Cir. 2012)	Not working on Sundays	No	Evangelical Christian

Case	Accommodation requested	Granted	Religion
Crider v University of Tennessee, Knoxville, 492 F. App'x 609 (6th Cir. 2012)	Not working on Saturdays	N/a	Seventh-day Adventist
Sanchez-Rodriguez v AT&T Mobility, 673 F.3d 1 (1st Cir. 2012)	Not working on Saturdays	No	Seventh-day Adventist
Walden v CDC, 669 F.3d 1277 (11th Cir. 2012)	Not working with same-sex attracted individuals	No	Evangelical Christian
Harrell v Donahue, 638 F.3d 975 (8th Cir. 2011)	Not working on Saturdays	No	Seventh-day Adventist
EEOC v Geo Group, 616 F.3d 265 (3rd Cir. 2010)	Wear a religious head covering	No	Muslim
Reed v UAW, 569 F.3d 576 (6th Cir. 2009)	Not paying union dues	No	Catholic

Case	Accommodation requested	Granted	Religion
Adams v Retail Ventures, Inc., 325 F. App'x. 440 (7th Cir. 2009)	Not working on Sundays and Wednesday evenings	No	Catholic
Webb v City of Philadelphia, 562 F.3d 256 (3rd Cir. 2009)	Wear a religious head covering	No	Muslim
Lizalek v Invivo Corp., 314 F. App'x 881 (7th Cir. 2009)	Accommodate plaintiff's belief that he was three distinct entities	No	Individual religion
EEOC v Firestone Fibers & Textiles, 515 F.3d 307 (4th Cir. 2008)	Not working on certain religious holidays	No	Living Church of God
Sturgill v UPS, 512 F.3d 1024 (8th Cir. 2008)	Not working on Saturdays	Yes	Seventh-day Adventist
Morrisette-Brown v Mobile Infirmary Med. Ctr., 506 F.3d 1317 (11th Cir. 2007)	Not working on Saturdays	No	Seventh-day Adventist

Case	Accommodation requested	Granted	Religion
Tepper v Potter, 505 F.3d 508 (6th Cir. 2007)	Not working on Saturdays	No	Jewish
Noesen v Med. Staffing Network, 232 F. App'x 581 (7th Cir., 2007)	Not filling prescriptions for birth control	No	Catholic
Stolley v Lockheed Martin, 228 F. App'x 379 (5th Cir. 2007)	Not working on Saturdays	No	United Church of God
Baker v The Home Depot, 445 F.3d 541 (2nd Cir. 2006)	Not working on Sundays	N/a	Evangelical Christian
EEOC v Robert Bosch Corp., 169 F. App'x 942 (6th Cir. 2006)	Not working on Saturdays	N/a	Old Path Church of God
Cloutier v Costco, 390 F.3d 126 (1st Cir. 2004)	Wearing religious facial jewelry	No	Church of Body Modification

Case	Accommodation requested	Granted	Religion
Rose v Potter, 90 F. App'x 951 (7th Cir. 2004)	Not working on Saturdays	No	Seventh-day Adventist
Peterson v HP, 358 F.3d 599 (9th Cir. 2004)	Allowance to post Bible verses in the workplace	No	Evangelical Christian
Creusere v Bd. of Educ. of Cincinatti, 88 F. App'x 813 (6th Cir. 2003)	Not working on Saturdays	No	Worldwide Church of God
Endres v Indiana State Police, 349 F.3d 922 (7th Cir. 2003)	Transfer from working at a casino	No	Evangelical Christian
George v Home Depot, 51 F. App'x 482 (5th Cir. 2002)	Not working on Sundays	No	Catholic
Virts v Consol. Freightways Corp. of Delaware, 285 F.3d 508 (6th Cir. 2002)	Not doing overnight truck drives with women	No	Evangelical Christian

Case	Accommodation requested	Granted	Religion
Cosme v Henderson, 287 F.3d 152 (2nd Cir. 2002)	Not working on Saturdays	No	Worldwide Church of God
Graff v Henderson, 30 F. App'x 809 (10th Cir. 2002)	Not working on Saturdays	No	Worldwide Church of God
Bruff v North Mississippi Health Serv., 244 F.3d 495 (5th Cir. 2001)	Not counseling same-sex attracted patients	No	Evangelical Christian
Thomas v Nat'l Ass'n of Letter Carriers, 225 F.3d 1149 (10th Cir. 2000)	Not working on Saturdays	No	Evangelical Christian
Ponce-Bran v Sacramento Natural Foods Co-op, 221 F.3d 1348 (9th Cir. 2000)	Not working on Saturdays	No	N/a

Case	Accommodation requested	Granted	Religion
Weber v Roadway Exp., Inc., 199 F.3d 270 (5th Cir. 2000)	Not making long/over-night drives with women	No	Jehovah's Witness
Baliunt v Carson City, 180 F.3d 1047 (9th Cir. 1999)	Not working on Saturdays	N/a	Worldwide Church of God
Allen v Runyon, 168 F.3d 489 (6th Cir. 1998)	Not working on Saturdays	No	Seventh-day Adventist
Rodriguez v City of Chicago, 156 F.3d 771 (7th Cir. 1998)	Not guarding abortion clinic	No	Catholic
Banks v Babbitt, 163 F.3d 605 (9th Cir. 1998)	Time off to attend a religious convention	No	Jehovah's Witness
EEOC v Ilona of Hungary, Inc, 108 F.3d 1569 (7th Cir. 1997)	Time off for a religious holiday	Yes	Jewish

Case	Accommodation requested	Granted	Religion
Chalmers v Tulon Co of Richmond, 101 F.3d 1012 (4th Cir. 1996)	Allowance to evangelize coworkers	No	Evangelical Christian
Opuku-Boateng v State of Cal., 95 F.3d 1461 (9th Cir. 1996)	Not working on Saturdays	Yes	Seventh-day Adventist
Genas v State of NY Dept. of Corr. Serv., 75 F.3d 825 (2nd Cir. 1996)	Not working on Saturdays	No	Seventh-day Adventist
Brown v Polk County, 61 F.3d 650 (8th Cir. 1995)	Various religious activities in the workplace	Yes	Evangelical Christian
Wilson v U.S. West Commc'n, 58 F.3d 1337 (8th Cir. 1995)	Wearing anti-abortion paraphernalia in the workplace	No	Catholic

Case	Accommodation requested	Granted	Religion
Garbers v Postmaster General, US Postal Service, 53 F.3d 338 (9th Cir. 1995)	Attending bi-monthly religious meetings	No	Evangelical Christian
Beadle v City of Tampa, 42 F.3d 633 (11th Cir. 1995)	Not working on Saturdays	No	Seventh-day Adventist
Beadle v Hillsborough Cnty. Sheriff's Dept., 29 F.3d 589 (11th Cir. 1994)	Not working on Saturdays	No	Seventh-day Adventist
Benton v Carded Graphics Inc., 28 F.3d 1208 (4th Cir. 1994)	Not working on Saturdays	Yes	Worldwide Church of God
Lee v. ABF Freight System Inc., 22 F.3d 1019 (10th Cir. 1994)	Not working on Saturdays	No	Seventh-day Adventist

Case	Accommodation requested	Granted	Religion
EEOC v Hanson-Loran Co., 21 F.3d 1112 (9th Cir. 1994)	Not working on Saturdays	N/a	Worldwide Church of God
Cooper v Oak Rubber Co., 15 F.3d 1375 (6th Cir. 1994)	Not working on Saturdays	No	Seventh-day Adventist
Thurman v Daltex Capital Corp., 14 F.3d 54 (5th Cir. 1994)	Not working on Sundays	No	Evangelical Christian
Heller v EBB Auto Co., 8 F.3d 1433 (9th Cir. 1993)	Missing a meeting to attend a religious conversion ceremony	N/a	Jewish
Mann v Frank, 7 F.3d 1365 (8th Cir. 1993)	Not working on Saturdays	No	Seventh-day Adventist
Blair v Graham Corr. Center, 4 F.3d 996 (7th Cir. 1993)	Not working on Saturdays	No	Seventh-day Adventist

Case	Accommodation requested	Granted	Religion
Cook v Chrysler Corp., 981 F.2d 336 (8th Cir. 1992)	Not working on Saturdays	No	Seventh-day Adventist
Miller v Drennon, 966 F.2d 1443 (4th Cir. 1992)	Not work 24-hour shifts in a single-bed station with female co-worker	No	Evangelical Christian
EEOC v Arlington Transit Mix, 957 F.2d 219 (6th Cir. 1991)	Leaving early on Wednesdays to attend church	N/a	Evangelical Christian
Ryan v DOJ, 950 F.2d 458 (7th Cir. 1991)	Not participating in a specific assignment	No	Catholic
Riselay v Secretary of HHS, 929 F.2d 701 (6th Cir. 1991)	Medical leave based on religious beliefs	No	Christian Science
Cook v Lindsay Olive Growers, 911 F.2d 233 (9th Cir. 1990)	Not working on Saturdays	No	Worldwide Church of God

Case	Accommodation requested	Granted	Religion
US v Bd. of Educ. for Sch. Dist. of Philadelphia, 911 F.2d 882 (3rd Cir. 1990)	Wearing a religious head covering	No	Muslim
EEOC v University of Detroit, 904 F.2d 331 (6th Cir. 1990)	Not paying union dues	Yes	N/a
Toledo v Nobel-Sysco, Inc., 892 F.2d 1481 (10th Cir. 1989)	Use of ceremonial religious drug (peyote)	Yes	Native American Church
Graham v Frank, 884 F.2d 1388 (4th Cir. 1989)	Not working on Saturdays	No	Worldwide Church of God
EEOC v Hacienda Hotel, 881 F.2d 1504 (9th Cir. 1989)	Not working on Saturdays	Yes	Seventh-day Adventist

Case	Accommodation requested	Granted	Religion
EEOC v Townley Eng'g & Mfg Co, 859 F.2d 610 (9th Cir. 1988)	Not attend religious services held in the workplace	Yes	Evangelical Christian
Hudson v Western Air-lines, Inc., 851 F.2d 261 (9th Cir. 1988)	Not working on Saturdays	No	Seventh-day Adventist
EEOC v Ithaca Industries, 849 F.2d 116 (4th Cir. 1988)	Not working on Sundays	N/a	Evangelical Christian
Eversley v MBank Dallas, 843 F.2d 172 (5th Cir. 1988)	Not working on Saturdays	No	N/a
Lake v B.F. Goodrich Co, 837 F.2d 449 (11th Cir. 1988)	Not working on Saturdays	Yes	Seventh-day Adventist

Case	Accommodation requested	Granted	Religion
DePriest v Dept. of Human Services of Tenn., 830 F.2d 193 (6th Cir. 1987)	Extra time-off to attend a special religious ceremony	No	Worldwide Church of God
Smith v Pyro Min. Co., 827 F.2d 1081 (6th Cir. 1987)	Not working on Sundays	Yes	Evangelical Christian
Proctor v Consolidated Freightways Corp. of Delaware, 795 F.2d 1472 (9th Cir. 1986)	Not working on Saturdays	Yes	Seventh-day Adventist
Protos v Volkswagen of America, Inc., 797 F.2d 129 (3rd Cir. 1986)	Not working on Saturdays	Yes	Worldwide Church of God
Wisner v Truck Cent., 784 F.2d 1571 (11th Cir. 1986)	Not working on Saturdays	No	N/a

Case	Accommodation requested	Granted	Religion
American Postal Workers Union, San Francisco Local v Postmaster General, 781 F.2d 772 (9th Cir. 1986)	Not process draft registration forms	No	Evangelical Christian
Baz v Walters, 782 F.2d 701 (7th Cir. 1986)	Freedom to practice religious ministry	No	Evangelical Christian
Philbrook v Ansonia Bd. of Educ., 757 F.2d 476 (2nd Cir. 1985)	Extra time-off for religious holidays	N/a	Worldwide Church of God
Turpen v Miss. Kan. Tex. R. Co., 736 F.2d 1022 (5th Cir. 1984)	Not working on Saturdays	No	Seventh-day Adventist
Bhatia v Chevron USA, Inc., 734 F.2d 1382 (9th Cir. 1984)	Not shaving facial hair	No	Sikh
Pinsker v Joint Dist No 28J, 735 F.2d 388 (10th Cir. 1984)	Paid time-off accommodation for religious observance	No	Jewish

Case	Accommodation requested	Granted	Religion
McDaniel v Essex Intern., Inc., 696 F.2d 34 (6th Cir. 1982)	Not join the mandatory union	Yes	Seventh-day Adventist
Brener v Diagnostic Center Hospital, 671 F.2d 141 (5th Cir. 1982)	Not working on Saturdays	No	Jewish
Edwards v Sch. Bd. of Norton, 658 F.2d 951 (4th Cir. 1981)	Not work on various religious holidays	Yes	Worldwide Church of God
Tooley v Martin Maraietta Corp., 648 F.2d 1239 (9th Cir. 1981)	Not joining the mandatory union	Yes	Seventh-day Adventist
Nottelson v Smith Steel Workers, 643 F.2d 445 (7th Cir. 1981)	Not joining the mandatory union	Yes	Seventh-day Adventist
Settles v Wickes Lumber Div., 624 F.2d 1101 (6th Cir. 1980)	Not working on Saturdays	No	Seventh-day Adventist

Case	Accommodation requested	Granted	Religion
Howard v Haverty Furniture Co., 615 F.2d 203 (5th Cir. 1980)	Extra time-off to fulfill ministerial functions	No	Evangelical Christian
Yott v North American Rockwell Corp., 602 F.2d 904 (9th Cir. 1979)	Not joining the mandatory union	No	Evangelical Christian
Brown v GM, 601 F.2d 956 (8th Cir. 1979)	Not working on Saturdays	Yes	Worldwide Church of God
Wren v. T.I.M.E.-D.C., Inc. 595 F.2d 441 (8th Cir. 1979)	Not working on Saturdays	No	Worldwide Church of God
Burns v S. Pac. Transp. Co., 589 F.2d 403 (9th Cir. 1978)	Not joining the mandatory union	Yes	Seventh-day Adventist
Anderson v General Dynamics, 589 F.2d 397 (9th Cir. 1978)	Not joining the mandatory union	Yes	Seventh-day Adventist

Case	Accommodation requested	Granted	Religion
Redmond v GAF Corp., 574 F.2d 897 (7th Cir. 1978)	Not working on Saturdays	Yes	Jehovah's Witness
Rohr v W. Elec. Co., Inc., 567 F.2d 829 (8th Cir. 1977)	Not working on Saturdays	No	Worldwide Church of God
Jordan v North Carolina Nat'l Bank, 565 F.2d 72 (4th Cir. 1977)	Not working on Saturdays	No	Seventh-day Adventist
Chrysler Corp. v Mann, 561 F.2d 1282 (8th Cir. 1977)	Not working on Saturdays	No	Worldwide Church of God
Cummins v Parker Seal Co., 561 F.2d 658 (6th Cir. 1977)	Not working on certain religious days	No	Worldwide Church of God
Ward v Allegheny Ludlum Steel Corp, 560 F.2d 579 (3rd Cir. 1977)	Not working on Saturdays	N/a	Worldwide Church of God

Case	Accommodation requested	Granted	Religion
Huston v Local No 93, 559 F.2d 477 (8th Cir. 1977)	Not working on Saturdays	No	Worldwide Church of God