No. 25-1210

In the Supreme Court of the United States

DAVID PETERSEN, *et al.*,
Petitioners,
v.
SNOHOMISH REGIONAL FIRE & RESCUE,
Respondent.

On Petition for Writ of *Certiorari* to the United States Court of Appeals for the Ninth Circuit

BRIEF OF *AMICUS CURIAE* JEWISH COALITION FOR RELIGIOUS LIBERTY IN SUPPORT OF NEITHER PARTY

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INTEREST OF *AMICUS CURIAE*[1]

The Jewish Coalition for Religious Liberty (JCRL) is an incorporated organization of rabbis, lawyers, and professionals who practice Judaism and are committed to defending religious liberty for all Americans. Like many other religious Americans, observant Jews may seek workplace accommodations for religious observance, including for holidays, dietary restrictions, and religious dress. Thus, although JCRL does not itself object to Washington's vaccination requirement on religious or other grounds, it strongly supports the right of Petitioners—and any other litigants seeking religious accommodations—to pursue their claims under a proper reading of this Court's decision in *Groff* v. *DeJoy*, 600 U.S. 447 (2023), and not under the Ninth Circuit's improper reading, which will allow employers to deny almost any religious accommodation request.

SUMMARY OF ARGUMENT

This appeal raises a circuit split and an exceptionally important question about religious accommodations. In *Groff*, this Court held that Title VII requires an employer who rejects a religious accommodation to prove that the accommodation

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[1] Pursuant to Rules 37.2 and 37.6 of this Court, JCRL affirms that no counsel for a party authored this brief in whole or in part, and that no party, counsel for a party, or any person or entity other than JCRL, its members, or its counsel made a monetary contribution intended to fund the preparation or submission of the brief, and affirms that counsel of record received the required 10 days' notice.

would impose a substantial, context-specific burden—not a "*de minimis*" one, as lower courts had long applied. But the Ninth Circuit's decision renders *Groff* a borderline nullity by allowing employers to prevail based on speculative harms while refusing to allow employees to even present to a jury competing evidence about how other employers have addressed identical accommodation requests, which is often the most powerful evidence an employee has.

That misreading of *Groff* is not abstract—it drives the result here. SRFR is a Seattle-area fire department that refused to accommodate Petitioners' religious beliefs—even as nearby departments successfully did so, including by employing Petitioner Petersen to fight fires alongside SRFR crews. The Ninth Circuit nevertheless allowed conjectural risks and employer say-so to defeat accommodation as a matter of law, while expressly disregarding that real-world evidence. That holding is materially indistinguishable from the one this Court rejected in *Groff*, out of line with other circuits, and at odds with ordinary summary judgment principles. This case thus squarely presents whether *Groff* will be enforced—or circumvented.

Groff provided long-sought relief for religious minorities who had suffered disproportionate harm under the mistaken *de minimis* framework.[2] Having

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[2] *See, e.g.*, *Amicus Curiae* Brief of the Union of Orthodox Jewish Congregations of America in Support of Petitioner at 14, *Groff* v. *DeJoy*, 600 U.S. 447 (2023) (No. 22-174).

so recently restored Title VII's protections to religious Americans, including religious Jewish Americans, this Court should not allow the decision below to strip those protections away once again.

There are at least three reasons to grant review.

First, the Ninth Circuit adopted a rule under which a "reasonable concern" about hardship is enough to deny religious accommodation at the summary judgment stage. *Petersen* v. *Snohomish Reg'l Fire & Rescue*, 150 F.4th 1211, 1221 (9th Cir. 2025). The panel accordingly affirmed summary judgment based on disputed assessments of risk, potential liability, and a possible contract loss, while expressly disclaiming any need for "realized hardships." *Id.* at 1221-22. That is the logic of *de minimis* by another name.

Second, compounding the error, the panel severed the asserted burdens from the "overall context" and "particular business" inquiry *Groff* requires. *Groff*, 600 U.S. at 468, 470. It never asked whether the alleged costs were substantial relative to SRFR's actual operations. And it refused to consider powerful real-world evidence that nearby fire departments successfully operated under similar conditions while accommodating religious objectors—including by employing Petitioner Petersen to fight fires alongside SRFR crews during the very period SRFR claimed accommodation was impossible. *Petersen*, 150 F.4th at 1222; Pet. 8-10.

Third, the panel misconstrued the summary judgment inquiry. Rather than asking whether a reasonable jury could reject SRFR's undue-hardship defense, the Ninth Circuit stated: "*we* consider whether SRFR would have faced an undue hardship." *Petersen*, 150 F.4th at 1218 (emphasis added). It then weighed disputed evidence, credited SRFR's expert and predictions, and dismissed Petitioners' contrary evidence. That is not the summary judgment standard.

By so insulating Respondent's assertions of burden from meaningful scrutiny, the Ninth Circuit's decision all but ensures that *Groff*'s holding of "what Title VII requires" will matter little in the cases where employees need it most. *Groff*, 600 U.S. at 454. And its departure is of particular importance to religious minorities, whom the *de minimis* standard once "left at the mercy of their employers' good graces." *Id.* at 465 (citation omitted). This Court should grant review.

ARGUMENT

I. THIS COURT SHOULD GRANT *CERTIORARI* TO ENSURE THAT TITLE VII PROVIDES THE ROBUST PROTECTION FOR RELIGIOUS AMERICANS THAT THIS COURT INTENDED.

The "place of religion in our society is an exalted one," housed in the "inviolable citadel of the individual heart and mind." *Sch. Dist. of Abington Twp.* v. *Schempp*, 374 U.S. 203, 226 (1963). Title VII of the

Civil Rights Act of 1964 thus affords to religious Americans "favored treatment, affirmatively obligating employers" to accommodate their workers' reasonable religious practices. *EEOC* v. *Abercrombie & Fitch Stores, Inc.*, 575 U.S. 768, 775 (2015). Even otherwise-neutral policies must give way to the need for an accommodation "to ensure religious persons' full participation in the workforce." *Groff*, 600 U.S. at 461 n.9.

More precisely, Title VII requires employers to accommodate their workers' religious exercise unless the employer "demonstrates" an "undue hardship." 42 U.S.C. § 2000e(j). For decades, lower courts treated that provision as satisfied by anything more than a "*de minimis*" burden. *Cf. Trans World Airlines, Inc.* v. *Hardison*, 432 U.S. 63, 84 (1977) (the misinterpreted source of the *de minimis* language). Religious Americans, including religious Jewish Americans, suffered greatly under that improper understanding of Title VII.[3] But this Court unanimously rejected that "loose language" in *Groff*, where it ruled that an employer must show a "burden, privation, or adversity" that rises "to an 'excessive' or 'unjustifiable' level" to escape liability. 600 U.S. at 469; *id.* at 474

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[3] *See Amici Curiae* Brief of the National Jewish Commission on Law and Public Affairs ("COLPA") and Other Jewish Organizations in Support of Petitioner at 5, *Groff* v. *DeJoy*, 600 U.S. 447 (2023) (No. 22-174), 2022 WL 4537686, at *5 (explaining that "the *Hardison* standard ha[d] severely impaired employment opportunities of Jewish Sabbath-observing Americans").

(Sotomayor, J., concurring). In other words, speculative or "trifling" costs divorced from "overall context" are not enough. *Id.* at 468-69. Title VII requires proof that the accommodation would impose "substantial increased costs in relation to the conduct of [an employer's] particular business." *Id.* at 470.

Groff aligned Title VII's accommodation mandate with this Nation's history of religious liberty and tolerance.[4] By restoring the statute to what it "actually says," this Court reaffirmed that Title VII is a meaningful, context-sensitive safeguard for religious exercise, not a hollow formality satisfied by trivial inconvenience. *Id.* at 468. That clarification is a significant victory for religious liberty. It ensures that religious Americans are not effectively barred from employment in certain industries or occupations. And that protection is especially vital for religious minorities, who are least likely to find their practices reflected in majoritarian workplace norms and thus most in need of robust accommodation.

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[4] That history reaches back to before the founding, when colonies were "established as sanctuaries for particular groups of religious dissenters" who "extended freedom of religion to groups . . . beyond their own." *City of Boerne* v. *Flores*, 521 U.S. 507, 551 (1997) (O'Connor, J., dissenting). By the time the Bill of Rights was ratified in 1791, the Nation's commitment to religious liberty had already endured for more than a century. *See* Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 HARV. L. REV. 1409, 1425 (1990) ("In 1649, the Maryland Assembly passed a statute containing the first 'free exercise' clause on the continent[.]").

But our Nation's promises of religious liberty are not self-executing.[5] If left undisturbed, especially as disagreement among the circuits grows, *see* Pet. 13-20, the Ninth Circuit's decision will erode the protections this Court restored in *Groff*.

A. The Ninth Circuit Effectively Revived The Very "*De Minimis*" Standard *Groff* Rejected.

This Court could not have been clearer: "the *de minimis* reading of *Hardison* is a mistake." *Groff*, 600 U.S. at 454, 471-72. After *Groff*, undue hardship means "something very different"—it requires a "fact-specific inquiry" to assess whether an employer has shown "substantial increased costs in relation to the conduct of its particular business." *Id.* at 468-70. That inquiry cannot rely on generalized, unquantified, or speculative burdens. There must instead be an assessment of the particular accommodation at issue, the employer's actual operations, and the "logical step" of examining the concrete "ramifications" of granting the exemption.[6] *Id.* at 472.

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[5] *See* James Madison, *Memorial and Remonstrance Against Religious Assessments* (1785), *reprinted in Everson* v. *Bd. of Educ. of Ewing Twp.*, 330 U.S. 1, 65 (1947) (appendix to dissent of Rutledge, J.) ("[I]t is proper to take alarm at the first experiment on our liberties.").

[6] *Cf. Fulton* v. *City of Philadelphia*, 593 U.S. 522, 541 (2021) (citation omitted) (clarifying, in another religious freedom context, that rather than relying on "'broadly formulated interests,' courts must 'scrutinize[ ] the asserted harm of granting specific exemptions to particular religious claimants'"); *Gonzales*

The Ninth Circuit's analysis circumvented *Groff* in two important ways.

First, the panel sustained summary judgment by crediting precisely the kind of speculative and unquantified evidence *Groff*'s standard does not permit. It approved SRFR's refusal to accommodate based on factors like the "'increased *risk*' of employee absences" and "scheduling issues," the "*potential* loss of a contract" with the Department of Corrections (DOC), and "*potential* liability" under an insurance exclusion. *Petersen*, 150 F.4th at 1221 (emphases added) ("[W]e do not understand 'undue hardship' to mean 'realized hardships.'"); *see* Pet. 10 (explaining that the panel mistakenly focused on whether the evidence supported a "reasonable concern" of undue hardship). Though the Ninth Circuit said a risk must be "realistic," it treated that requirement as satisfied by such unquantified predictions—all without proof of how those risks would have imposed substantial increased costs on SRFR's business. *Petersen*, 150 F.4th at 1222. The panel further weighed how Petitioners' proposed accommodations "*might* endanger" others or "*potentially*" limit operations, concluding those accommodations were not the "safest, easiest, and most effective." *Id.* at 1219-20 (emphases added).

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v. *O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 438 (2006) (emphasizing that the government's "invocation of . . . general interests, standing alone, is not enough").

But religious accommodations need not be maximally convenient to the employer to pass muster—that is *Hardison*'s erroneous test. And, more importantly, *Groff* requires more than a mere possibility of burden. An employer may not satisfy Title VII by invoking "some sort of additional costs"; the hardship must rise to an "excessive" or "unjustifiable" level in the overall context of the business. 600 U.S. at 468-69. When the test becomes whether the employer reasonably feared hardship, rather than whether accommodation would impose a substantial hardship, the standard is just *de minimis* by another name. Courts may consider future risk, but *Groff* requires proof that the predicted risk would translate into substantial increased costs for an employer's particular business.

The record here illustrates the difference. Petitioners pointed to evidence that SRFR had accommodated their opt-outs both before and after the Governor's mandate, that DOC never once objected to Petitioners' working in its facilities once they returned, and that SRFR's own chief acknowledged communicable-disease suits were "rare and difficult . . . to win." *Petersen*, 150 F.4th at 1221-22; Pet. 8-10. That evidence may or may not persuade a jury considering undue hardship, but it squarely rebuts the notion that speculative risks automatically amount to undue hardship as a matter of law.

The panel's treatment of "risk" also threatens to swallow accommodation rights whole in safety-adjacent jobs. If employers in public-facing fields—

where some risk is always present—are routinely allowed to deny accommodations on the basis of unquantified or generalized safety "risk," then *Groff*'s "substantial increased costs" requirement becomes meaningless. 600 U.S. at 470.

The panel made a related error in assessing SRFR's asserted burdens in the abstract, rather than "in relation to the conduct of its particular business." *Id*. Aside from noting the number of exemption requests, the panel never explains how the "potential loss of a contract" or "potential [unquantified] liability" bears on SRFR's operating budget. *Petersen*, 150 F.4th at 1221. Nor do we learn whether the asserted safety risks, in relation to the DOC contract or otherwise, could have been mitigated by testing protocols, station assignments, staffing adjustments, voluntary shift swaps, or other measures tailored to SRFR's actual operations. *Cf. Groff*, 600 U.S. at 471, 473 (explaining that "voluntary shift swapping" and "occasional shift swapping" are potential accommodations); *Adeyeye* v. *Heartland Sweeteners, LLC*, 721 F.3d 444, 455 (7th Cir. 2013) (recognizing that an employer on summary judgment "must show, as a matter of law, that *any and all* accommodations would have imposed an undue hardship" (emphasis added) (cited by this Court in *Groff*, 600 U.S. at 473)).

Treating the sheer number of requests as evidence of undue hardship only compounds the problem. Title VII may permit consideration of cumulative operational burden, but it still requires an individualized and context-specific assessment of

whether the requested accommodation would impose substantial hardship. It does not permit an employer merely to tally initial requests and declare them collectively too inconvenient—especially where different requests from different employees in different circumstances may require different accommodations.

In that vein, the panel endorsed the incorrect notion that an employer's mere receipt of many accommodation requests weighs in favor of refusing individual religious exemptions, however meritorious they may be. *Petersen*, 150 F.4th at 1220 ("The fact that forty-six requests were 'initially received' is the critical data point[.]"). This is exactly the sort of wholesale, categorical treatment that *Groff*'s "context-specific" test rejects. 600 U.S. at 473. And, at bottom, "this argument is but another formulation of the 'classic rejoinder of bureaucrats throughout history: If I make an exception for you, I'll have to make one for everybody, so no exceptions.'" *Holt* v. *Hobbs*, 574 U.S. 352, 368 (2015) (citation omitted). This Court has "rejected a similar argument in analogous contexts," *see Sherbert* v. *Verner*, 374 U.S. 398, 407 (1963), and should "reject it again today." *Holt*, 574 U.S. at 368.

Second, *Groff* also instructed courts to consider "all relevant factors." 600 U.S. at 470. That necessarily includes real-world evidence of "the policies followed at other well-run institutions," as this Court has explained in similar settings. *Holt*, 574 U.S. at 368 (citation omitted); *Mast* v. *Fillmore Cnty.*, 141 S. Ct. 2430, 2433 (2021) (Gorsuch, J., concurring); *see*

also, e.g., *Nunez* v. *Wolf*, 117 F.4th 137, 148-49, 155 (3d Cir. 2024) (citation omitted) (faulting the "failure of a defendant to explain why another institution with the same compelling interests was able to accommodate the same religious practices"). In other words, courts ought to consider whether comparable employers could—and did—operate successfully under similar conditions while accommodating Petitioners' religious objections. Though not necessarily dispositive, such evidence is plainly relevant to the question of undue hardship and often the most powerful evidence that employees can offer.

Petitioners here offered precisely that evidence: nearby fire departments accommodated the same religious objections, and one even "hired Plaintiff David Petersen while he was on leave from SRFR" to "f[ight] fires alongside his SRFR peers" during the very period SRFR insisted accommodation was impossible. *Petersen*, 150 F.4th at 1222; Pet. 9-10. That evidence did not "judge SRFR by the responses taken by other fire departments," *Petersen*, 150 F.4th at 1222; rather, it bore directly on whether SRFR's asserted costs were truly "undue"—rising to an "'excessive' or 'unjustifiable' level"—or instead manageable. *Groff*, 600 U.S. at 469. *See also Williams* v. *Legacy Health*, 2026 WL 1239760, at *3 (9th Cir. May 6, 2026) (quoting *Petersen*, 150 F.4th at 1222) (denying religious accommodation in part because, under *Petersen*, the court cannot consider "the responses taken by other [employers]" (alteration in original)).

The Ninth Circuit's decision cannot be squared with *Holt*'s treatment of comparative institutional evidence. In *Holt*, a Muslim inmate sought to grow a half-inch beard in accordance with his religious beliefs, and prison officials denied the request on security grounds. This Court unanimously reversed, holding that the prison "failed to show, in the face of petitioner's evidence," why other institutions "permit inmates to grow ½-inch beards . . . but it cannot." *Holt*, 574 U.S. at 368. This Court stressed that "[w]hile not necessarily controlling, the policies followed at other well-run institutions would be relevant to a determination of the need for a particular type of restriction." *Id.* (citation omitted). And it required that when other institutions "offer an accommodation, [the government] must, at a minimum, offer persuasive reasons why it believes that it must take a different course." *Id.* at 369.

Although *Holt* arose under RLUIPA, its methodological point maps directly onto *Groff*'s requirement to consider all relevant factors. The principle is the same: when a defendant claims that an accommodation would impose an *undue* burden, evidence that comparable institutions accommodated the same practice is powerful—and often the best—proof that the claimed hardship is neither "excessive" nor "unjustifiable." *Groff*, 600 U.S. at 469. The contrast here is stark, as shown below:

This Court in *Holt*	**9th Cir. in *Petersen***
Comparator evidence is relevant: "[T]he policies followed at other well-run institutions would be relevant to a determination of the need for a particular type of restriction." 574 U.S. at 368.	***Comparator evidence is irrelevant***: "We cannot judge SRFR by the responses taken by other [neighboring] fire departments." 150 F.4th at 1222.
When peers accommodate the same religious practice, the defendant "must, at a minimum, offer persuasive reasons" for "tak[ing] a different course." 574 U.S. at 369.	***When peers accommodate the same religious practice***, that is legally immaterial "hindsight" evidence: "The reasonableness of others' decisions is not before us." 150 F.4th at 1222.
Result: Reversing in part because a prison "failed to show, in the face of petitioner's evidence," why other institutions "permit inmates to grow ½-inch beards . . . but it cannot." 574 U.S. at 368.	***Result***: Affirming in part by expressly disregarding Petitioners' evidence that nearby fire departments allowed firefighters to continue working and that one even hired Petitioner Petersen to fight fires "alongside his SRFR peers." 150 F.4th at 1222.

The Ninth Circuit's bar on comparative evidence is especially harmful to minority faiths in particular, in addition to religious Americans in general. In many cases, examining a comparator may be the only way an employer can ascertain whether it can accommodate religious practices that it has never before encountered. For example, an employer may not know initially whether it can accommodate a religious Jewish employee's request to wear a religious head covering under his hard hat or to refrain from traveling on the Sabbath, but seeing it done elsewhere might reveal that accommodation is entirely practical.

The decision below cannot be reconciled with Title VII or this Court's precedents. By permitting an employer to prevail on unquantified risk predictions, by evaluating burdens in the abstract rather than in the context of actual operations, and by disregarding probative evidence from comparable institutions, the Ninth Circuit effectively reinstated the *de minimis* standard *Groff* repudiated.

B. The Ninth Circuit Compounded That Error By Misapplying The Summary Judgment Standard.

It is "the jury, not the court, which is the fact-finding body." *Tennant* v. *Peoria & P. U. Ry. Co.*, 321 U.S. 29, 35 (1944); *Anderson* v. *Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986); *cf.* U.S. CONST. amend. VII. Indeed, so clear is the rule that juries—not judges—"weigh the evidence" and "draw[] . . . inferences from the facts," *Liberty Lobby*, 477 U.S. at 249, 255, that

this Court has repeatedly summarily vacated contrary rulings. *See Lombardo* v. *City of St. Louis*, 594 U.S. 464 (2021); *Tolan* v. *Cotton*, 572 U.S. 650, 659 (2014).

The Ninth Circuit's departure from that basic rule here is apparent: instead of asking whether *every reasonable juror* would find SRFR faced an undue hardship, *Liberty Lobby*, 477 U.S. at 248, the court stated that "*we* consider whether SRFR would have faced an undue hardship," *Petersen*, 150 F.4th at 1218 (emphasis added). That omission mattered because the panel then proceeded to weigh the evidence and "select from among conflicting inferences" as though it were the factfinder. *Tennant*, 321 U.S. at 35.

That error appeared across all the court's categories of asserted burden—safety, finances, and operations. In each category, the panel credited SRFR's predictive evidence and discounted Petitioners' contrary proof as irrelevant or too insubstantial to matter.

On safety, the panel privileged the "concerns" of SRFR's expert, Dr. Lynch, over Petitioners' evidence that firefighters always "masked . . . and maintained social distancing" and that SRFR had accommodated Petitioners' opt-outs both before and after the Governor's mandate. *Petersen*, 150 F.4th at 1218-22 ("SRFR mandated the vaccine for a seven-month period . . . after managing the pandemic without one at other times."); *see* Pet. 9-10. A jury might credit Dr. Lynch. But a court may not grant summary judgment by deciding that a moving party's expert was more persuasive than the opposing party's record evidence.

So too with finances and operations. As to the DOC contract, Petitioners offered evidence that DOC never objected to Petitioners "working in its facilities once SRFR allowed [them] to return" and that DOC's policy allowed for religious accommodations anyway. *Petersen*, 150 F.4th at 1221; Pet. 9-10. The panel nonetheless deemed the risk of losing the contract dispositive because DOC's policy was "not within SRFR's control." *Petersen*, 150 F.4th at 1221. That is not a summary judgment inference in the opposing party's favor. *See Tolan*, 572 U.S. at 651 (citing *Liberty Lobby*, 477 U.S. at 255) (granting *certiorari*, vacating, and remanding because "the Fifth Circuit failed to adhere to the axiom that in ruling on a motion for summary judgment, '[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor'").

Petitioners also pointed to evidence that SRFR's insurer had "never faced" the sort of lawsuit SRFR hypothesized, that SRFR's own chief described such suits as "rare and difficult . . . to win," and that nearby departments—and indeed SRFR itself—had already implemented the proposed accommodations. *Petersen*, 150 F.4th at 1221-22; Pet. 9. The panel brushed that evidence aside as legally irrelevant "hindsight" and found that SRFR was "justified" in its version of the facts.[7] *Petersen*, 150 F.4th at 1222. That summary

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[7] In other instances, the court concluded that Petitioners' evidence lost because it was "contradicted by other evidence in the record." *Petersen*, 150 F.4th at 1219. That result flies in the face of this Court's precedents. *See Tennant*, 321 U.S. at 35

judgment error is especially serious here because *Groff* itself emphasizes that undue hardship is "fact-specific" and turns on "all relevant factors." 600 U.S. at 468, 470. A standard that is fact-intensive by design cannot be converted into a paper-record inquiry by treating disputed evidence as irrelevant hindsight.

In *Tolan*, for instance, it was enough for this Court that the Court of Appeals had made a "fundamental" error in neglecting the principle that "a judge's function at summary judgment is not to weigh the evidence and determine the truth of the matter." 572 U.S. at 656, 659 (cleaned up) ("[W]e intervene here because the opinion below reflects a clear misapprehension of summary judgment standards in light of our precedents.").

Here, not only did the Ninth Circuit commit the same fundamental error, but the disputed facts at issue are outcome-determinative: the panel "fail[ed] to credit evidence that contradicted some of its key factual conclusions" and "resolved disputed issues in favor of the moving party" as to every category of cost that featured in its undue hardship analysis. *Id.* at 657. Religious minorities will be unprotected by *Groff*'s demanding standard if courts can convert a fact-specific inquiry into summary judgment whenever a party produces some admissible evidence of potential hardship.

(explaining that it is "not the function of a court to search the record" for conflicting evidence "in order to take the case away from the jury").

As the petition explains, the question presented controlled the outcome below. Pet. 20, 22-23. In circuits that require substantiated proof of undue hardship, rather than a reasonable concern about potential hardship, the same evidence would have at least permitted a jury to decide whether SRFR's asserted burdens were real, substantial, and business-specific. The panel's failure to apply—indeed, to state—the correct summary judgment standard independently warrants this Court's review.

II. THE QUESTION PRESENTED IS EXCEPTIONALLY IMPORTANT TO RELIGIOUS MINORITIES AND WARRANTS IMMEDIATE REVIEW.

As this Court recognized in *Groff*, the Ninth Circuit's error will disproportionately harm members of minority faiths. 600 U.S. at 465 (observing that the *de minimis* test had "blessed the denial of even minor accommodation in many cases, making it harder for members of minority faiths to enter the job market").

That concern is not theoretical. When courts dilute protections for religious exercise, it is adherents of minority traditions—whose practices are least likely to align with prevailing workplace norms—who bear the brunt. *See Sherbert*, 374 U.S. at 404 (warning of the danger that adherents may be forced to choose between losing their jobs and violating their faith). For religious Jews—whose observance of Shabbat, religious dress, and other religious obligations often diverge from dominant workplace expectations—the difference between a meaningful accommodation

standard and a watered-down one is the difference between equal participation in the workforce and exclusion from it. The same is true for other religious minorities, such as:

- Muslim employees who require breaks for daily prayers, time off for Eid and Ramadan observance, halal dietary options, or the ability to wear a hijab or other religious dress, *see Abercrombie & Fitch Stores*, 575 U.S. at 770;
- Sikh employees who wear turbans, maintain unshorn hair, or carry small ceremonial daggers as articles of faith—practices that may conflict with workplace uniform or grooming policies, *see Singh* v. *Berger*, 56 F.4th 88, 93-94 (D.C. Cir. 2022);
- Seventh-day Adventists and other Sabbatarian Christians who cannot work on Saturdays, *see Sherbert*, 374 U.S. at 399; or
- Observers of Native American traditions who may need leave for ceremonial practices or the ability to wear sacred items, *see Yellowbear* v. *Lampert*, 741 F.3d 48, 53, 56 (10th Cir. 2014) (opinion of Gorsuch, J.).

Indeed, because certain religious practices are often alien to employers, employers are more likely to assume—without adequate basis—that such practices cannot be accommodated, even where they would readily accommodate more familiar religious observances.

This Court has thus long emphasized the need to "protect the rights of those whose religious practices are not shared by the majority and may be viewed with hostility." *Employment Division* v. *Smith*, 494 U.S. 872, 902 (1990) (O'Connor, J., concurring in the judgment); *Salazar* v. *Buono*, 559 U.S. 700, 728 (2010) (Alito, J., concurring in part and concurring in the judgment) ("Congress has shown notable solicitude for the rights of religious minorities.").

The problem is national and recurring. As the petition details, the courts of appeals are now divided over whether Title VII requires substantiated proof of undue hardship or only a reasonable concern about potential hardship. Pet. 13-20. And religious-accommodation disputes continue to arise across the country in workplaces ranging from hospitals to schools to correctional institutions. *Id.* at 13-18.

This case is also a strong vehicle. The question presented controlled the judgment below, the record cleanly presents the difference between actual hardship and predicted risk, and the Ninth Circuit's published opinion was its first sustained application of *Groff*. *Petersen*, 150 F.4th at 1217; Pet. 20-25. Immediate review would give lower courts needed guidance before post-*Groff* confusion hardens. *See Williams*, 2026 WL 1239760, at *3 (applying *Petersen*'s mistaken rule on summary judgment to deny religious accommodation).

Absent review, Title VII's protection will once again depend on geography and employer grace. Employees of faith in one circuit will receive the robust

protection *Groff* promised, while employees elsewhere will remain subject to a diluted standard that Congress did not enact—affecting religious minorities in particular. This Court's intervention is necessary. The petition should be granted.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for a writ of *certiorari*.

Respectfully submitted,

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