

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 A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

**PETITIONERS' RESPONSE TO
RESPONDENT'S SUPPLEMENTAL BRIEF**

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The Seventh Circuit’s decision in *Mason v. Cook County*, No. 25-2743 (7th Cir. Sept. 28, 2026), confirms the split and illustrates that the question presented is important and oft-recurring. SRFR’s gloss on *Mason* misses the mark at every turn.

1. SRFR argues (at 1-2) that *Mason* “confirms SRFR’s reading of the legal landscape” because the Seventh Circuit “reached the same result as the Ninth Circuit on similar facts.” Not so. The split is about the governing rule (i.e., whether a reasonable concern of hardship is enough to defeat a Title VII religious accommodation claim), not about who won.

Mason restated the Seventh Circuit’s side of that divide. The majority applied *Groff*’s “substantial increased costs” test through *Kluge v. Brownsburg Community School Corp.*, which holds that an employer must “prove undue hardship arising from the accommodation,” not “merely offer a good-faith ... reason for taking an adverse employment action.” 150 F.4th 792, 807 (7th Cir. 2025); see Supp.App.6a-7a. *Mason* applied that actual hardship rule, not the Ninth Circuit’s reasonable-concern-of-hardship rule. Indeed, the Seventh Circuit cited *Petersen* only to support the proposition that other circuits have found “undue hardship regarding religious exemptions to COVID-19 vaccine policies,” Supp.App.7a; it did not borrow *Petersen*’s reasonable-concern rule.

But *Mason* still lost under the Seventh Circuit’s actual-hardship rule because the County proved that “outbreaks” had “jeopardized” operations and *Mason* “provided no evidence” that her proposed accommodation was a reasonable alternative to vaccination. Supp.App.7a, 10a. Petitioners had exactly the evidence that *Mason* lacked. SRFR had followed the same masking and testing protocols for 20 months, and SRFR later granted the very

accommodation it had denied. Pet.7-8. Neighboring districts granted the same requests without hardship. Pet.10. SRFR also worked side by side with those districts’ unvaccinated firefighters without issue. *Id.* Under *Kluge*, as the *Mason* dissent explained, an employer that has already accommodated an employee must “prove both that there was a hardship, and that the accommodation caused that hardship.” Supp.App.29a (quoting *Kluge*, 150 F.4th at 806). In the Seventh Circuit, petitioners’ countervailing evidence would go to a jury. In the Ninth Circuit, it is legally irrelevant. That is a split.

The dissent’s remark that it was “aware of no circuit decision going the other way” does not help SRFR either. Supp.App.32a. Judge Taibleson was describing outcomes: other circuits that had “upheld findings of undue hardship” in vaccine cases. *Id.* She was not describing legal standards. Her very next sentence, which SRFR leaves out, reads: “Whether those decisions are all correct is a question for the Supreme Court.” *Id.* That is an invitation to grant review, not a reason to deny it.

2. SRFR next claims (at 2) that the *Mason* dissent “recognized that SRFR’s evidence of undue hardship was particularly strong.” The dissent said no such thing. It simply repeated how the Ninth Circuit’s opinion described the record. Supp.App.32a-33a (citing *Petersen v. Snohomish Reg’l Fire & Rescue*, 150 F.4th 1211, 1218-22 (9th Cir. 2025)). Then it concluded—after questioning whether *Petersen* and cases like it “are all correct”—that the employer in *Mason* presented *even less* evidence of an undue hardship. *Id.*

3. *Mason* also confirms that the question presented is important and recurring. Pet.20-22. The dissent observed that “federal courts have been flooded with Title VII claims related to COVID-19 vaccine policies.” Supp.App.16a. And it predicted the issue “will come up

again, many times over.” *Id.* Confusion over Title VII’s undue hardship standard is rampant and will persist even outside the vaccine context. Only this Court can clarify it.

CONCLUSION

The petition should be granted.

Respectfully submitted,

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