26-6178 ORIGINAL

No. _-__

IN THE
Supreme Court of the United States

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SUPREME COURT, U.S.

BASRA D. MOHAMED,

Petitioner,

v.

FULL LIFE CARE, et al.,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Title VII of the Civil Rights Act of 1964 requires an employer to accommodate an employee's religious observance or practice unless the employer "demonstrates that he is unable to reasonably accommodate" that observance or practice "without undue hardship on the conduct of the employer's business." 42 U.S.C. § 2000e(j). In *Groff v. DeJoy*, 600 U.S. 447 (2023), this Court held that an employer must show that "the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." *Id.* at 470. The Court instructed lower courts to apply that standard "in a manner that takes into account all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, size and operating cost of an employer." *Id.* at 470–71.

The question presented is:

Whether, in demonstrating "undue hardship on the conduct of the employer's business" under Title VII, an employer may rely on asserted health, safety, operational, contractual, or financial consequences without independently establishing the material factual predicates connecting the particular religious accommodation requested to a substantial burden on the conduct of its particular business, or whether those predicates must be established as part of the employer's undue-hardship showing.

PARTIES TO THE PROCEEDINGS BELOW

Petitioner Basra Mohamed was the plaintiff in the district court and the appellant in the court of appeals.

Respondents Full Life Care and Transforming Age were the defendants in the district court and appellees in the Ninth Circuit.

RELATED PROCEEDINGS

This Case arises from and is related to the following proceedings in the U.S. District Court for the Western District of Washington and the U.S Courts of Appeals for the Ninth Circuit:

- *Mohamed v. Full Life Care* No. 24-6768 (9th Cir. Jun.16, 2026) (affirming district court's grant of employer's motion for summary judgment)

- *Mohamed v. Full Life Care*, No. C22-1010-KKE, 2024 WL 4371584 (W.D. Wash. Oct. 2, 2024)

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Basra D Mohamed respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The memorandum (opinion) of the United States Court of Appeals for the Ninth Circuit is unpublished and is reproduced at Pet. App. 1a–4a. The memorandum is also available at *Mohamed v. Full Life Care*, No. 24-6768 (9th Cir. June 16, 2026).

The order of the United States District Court for the Western District of Washington granting Respondents' motion for summary judgment is available at *Mohamed v. Full Life Care*, No. 2:22-cv-01010-KKE, 2024 WL 4371584 (W.D. Wash. Oct. 2, 2024), and is reproduced at Pet. App. 5a–12a.

STATEMENT OF JURISDICTION

The United States Court of Appeals for the Ninth Circuit entered judgment on June 16, 2026. Pet. App. 1a–4a. This petition for a writ of certiorari is timely filed on September 14, 2026. No petition for rehearing was timely filed in this case. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 U.S.C. § 2000e-2(a) provides:

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's * * * religion * * * or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual

of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

42 U.S.C. § 2000e(j) provides:

The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

STATEMENT

I. BACKGROUND

Petitioner Basra Mohamed was employed by Full Life Care ("FLC") as a Mental Health Services Coordinator ("MHSC") serving residents of the Seattle Housing Authority's ("SHA") Scattered Sites program. Mohamed's position was funded through FLC's contract with SHA and assigned to SHA's Scattered Sites housing portfolio. Transforming Age ("TA"), FLC's affiliated parent organization, was not a party to the FLC–SHA agreement. TA nevertheless administered the vaccination policy and religious-accommodation process at issue here.

Mohamed's position involved providing services to SHA residents in response to referrals from SHA. Before the COVID-19 pandemic, her duties included resident outreach and other activities associated with the MHSC position. After the pandemic began in March 2020, meetings and Mohamed's other work transitioned to remote performance, including meetings conducted through Microsoft Teams. The district court itself acknowledged that Mohamed had been "allowed to perform her job entirely remotely during an earlier phase of the COVID-19 pandemic." Pet. App. __a n.2. The same record evidence on which the district court relied in finding that Mohamed had returned to working in person "at least some of the time" also described the referral-dependent nature of resident contacts and the absence of a regular FLC workspace.

Mohamed testified that her remote work continued through the termination of her employment in October 2021. The record also contained contemporaneous communications reflecting continued remote supervision and FLC's developing plans for returning employees to the workplace.

Mohamed's Faith and Religious Practice

Mohamed is a practicing Muslim. Her sincerely held religious beliefs included reliance on faith-based healing and religious principles concerning bodily stewardship and accountability before Allah. She had discussed her faith-based approach to health and healing with her FLC supervisor before the vaccination requirement arose.

Mohamed practiced those beliefs principally in her personal life and at home. Her religious observance did not involve imposing her beliefs or religious practices on SHA residents, coworkers, or others with whom she worked. Her objection to the COVID-19 vaccination requirement arose from her understanding of her religious obligations concerning medical intervention, bodily stewardship, and faith-based healing.

The accommodation Mohamed later requested concerned vaccination. She did not request permission to engage in a religious practice around SHA residents, TA residents or clients, or coworkers, nor did she seek an exemption from performing the duties of her position. Her religious objection concerned whether she herself would receive the COVID-19 vaccine.

Vaccination Requirement and Accommodation Request

On September 8, 2021, FLC communicated a vaccination requirement to its workforce while simultaneously addressing its plans for reopening. FLC stated that its Back to Work Committee was still "working towards creating a re-opening strategy" and that vaccination information was needed to develop its "contingency and re-opening strategies." In the same communication, FLC directed employees who did not intend to become vaccinated to submit a request for reasonable accommodation through TA.

Mohamed sought a religious accommodation from the vaccination requirement on September 21, 2021. The accommodation she requested was an exemption from vaccination; she did not request an exemption from performing her job duties or initiate a new remote-work arrangement; according to her testimony, she already was performing her position remotely.

TA processed the request through its centralized accommodation process. Karen Brandt, a TA vice president, later stated that the accommodation panel consulted medical and legal professionals, public-health and medical authorities, an infectious-disease expert, and SHA in evaluating accommodation requests.

On September 29, 2021, Brandt informed Mohamed by email that her religious-accommodation request had been denied. The contemporaneous

denial framed the determination in terms of protecting TA's "residents/clients," their families, and its "workforce." The denial did not identify Mohamed's SHA assignment or explain how the particular accommodation she requested would burden FLC's performance of its SHA contract.

Following the denial, Mohamed remained employed by FLC for a short period. On October 8, 2021, Mohamed's supervisor scheduled an October 13 supervision meeting through Microsoft Teams and separately addressed the return of FLC-issued equipment and her keycard on her final day. Mohamed testified that her remote work continued through the termination of her employment. FLC subsequently terminated Mohamed's employment in October 2021.

II. PROCEDURAL HISTORY

District Court : Mohamed brought this action in the United States District Court for the Western District of Washington. As relevant here, she alleged that the failure to accommodate her sincerely held religious beliefs violated Title VII of the Civil Rights Act of 1964. FLC and TA, represented by the same counsel, jointly moved for summary judgment and presented the undue-hardship defense collectively as "Defendants." Their motion relied on declarations from individuals addressing different entities, institutional circumstances, and predicted consequences.

Cricket Farr, FLC's Executive Director, addressed Mohamed's position, FLC's staffing circumstances, and FLC's contractual relationship with SHA. Farr described duties associated with the MHSC position, including resident-facing activities, and stated that the other MHSC already carried a full workload. Farr further stated that hiring another employee to cover an in-person component of Mohamed's position would be financially prohibitive and that FLC had no other open position for which Mohamed was qualified. But Farr did not state when Mohamed had resumed in-person resident-facing duties following the period of remote work or identify an effective date for such a return.

James Bennett supplied much of the health-and-safety and liability analysis. Bennett discussed infection-control concerns involving caregivers, movement between residents, PPE and N-95 protocols, isolation barriers, and transmission between service environments. He stated that Mohamed's duties "involved traveling to and from resident homes during a workday" and predicted serious consequences if she transmitted COVID-19 to a resident. But Bennett did not state when Mohamed had resumed such travel following the period of remote work or identify a resident visit she performed during the

relevant period. Nor did he identify his involvement with Mohamed's FLC–SHA assignment or the basis for knowledge of her actual work status.

Brandt supplied another part of the showing. She described TA's accommodation process and stated that alternatives could not sufficiently address the risk of exposing "residents or employees" to COVID-19. She also supplied the evidence concerning SHA's anticipated vaccination requirements. In one paragraph, Brandt stated that SHA "contractually required all FLC's employees be vaccinated." In another, she stated that SHA "had indicated it would soon require all contractors working with SHA residents to be vaccinated." Brandt predicted that SHA would not allow Mohamed to work with its residents while unvaccinated and that FLC "could risk losing" its SHA contract if it insisted otherwise.

The declarations thus did not describe a single employer-specific chain of hardship. Farr addressed FLC's work, staffing, and SHA contract; Bennett supplied health-and-safety and liability predictions substantially framed through TA's institutional concerns; and Brandt described TA's accommodation process and predicted SHA's response. None of the three declarations expressly stated that Mohamed had resumed in-person resident-facing duties following the period of remote work or identified when such a return became effective. And the cited materials did not establish that Mohamed's FLC–SHA work involved TA's residents, clients, workforce, employees, or staff.

On October 2, 2024, the district court granted FLC's and TA's motion for summary judgment. Pet. App. __a–__a. The court assumed that Mohamed had established a prima facie failure-to-accommodate claim and resolved the claim on undue hardship.

The district court analyzed the defense collectively as to FLC and TA. It reasoned that because Mohamed's duties required interaction with elderly and medically vulnerable adults, allowing her to remain unvaccinated "would have put her clientele at risk and exposed Defendants to liability." Pet. App. __a. It concluded that testing, masking, or eliminating the in-person component of Mohamed's job either would not adequately protect "Defendants" from liability or would be cost-prohibitive "in the context of Defendants' business." It further reasoned that the in-person portions of Mohamed's job were required by "Defendants' contract" with SHA and that "Defendants" would have needed to hire an additional employee to perform those portions if Mohamed were exempted from performing them. Pet. App. __a.

That collective formulation did not correspond precisely to the entity-specific relationships described in the cited evidence. Farr identified the

relevant contract as FLC's contract with SHA, and Brandt's predicted contract loss likewise concerned FLC's SHA contract. The record material did not establish a separate TA–SHA contract. Likewise, Bennett's and Brandt's TA-centered institutional concerns did not themselves establish that Mohamed's work for FLC serving SHA residents implicated TA's residents, clients, employees, workforce, or operations.

The district court also supplied a factual premise concerning Mohamed's work status. Although acknowledging that she previously had worked "entirely remotely," it stated that by the time of the vaccination requirement employees "including Mohamed" had "returned to working in person at least some of the time." Pet. App. __a n.2. Yet none of the three declarations expressly stated that Mohamed had resumed in-person resident-facing duties following the period of remote work or identified an effective date for such a return. The district court nevertheless concluded that FLC and TA had submitted evidence "amply" supporting undue hardship and emphasized that their evidence was "unrebutted." Pet. App. __a.

Ninth Circuit: Mohamed appealed. On June 16, 2026, the United States Court of Appeals for the Ninth Circuit affirmed in an unpublished memorandum disposition. Pet. App. __a–__a. Applying *Groff v. DeJoy*, 600 U.S. 447 (2023), the Ninth Circuit stated that undue hardship is shown when a burden is substantial in the overall context of an employer's business and that the inquiry considers "all relevant factors," including the particular accommodation at issue and its practical impact in light of the nature, size, and operating cost of the employer. Pet. App. __a.

The Ninth Circuit stated that "[u]nrebutted evidence shows that Full Life Care could not reasonably accommodate Mohamed's request for religious exemption from the COVID-19 vaccine requirement without undue hardship, because her role requires essential in-person contact with vulnerable populations." Pet. App. __a. The court noted that 58% of the SHA residents served by Mohamed's program were over age 62 and 77% were disabled. Pet. App. __a.

The court relied on Mohamed's MHSC job description, which identified essential functions including "conduct[ing] on-site client needs assessments," completing regular outreach, maintaining a safe and healthy environment, following infection-control protocols, and certain physical requirements. Pet. App. __a. The court also cited Farr's statement that an MHSC "typically performs multiple visits per day to residents' homes" to assess matters including hoarding, sanitation, pest remediation, food insecurity, security, digital equity, and dementia or memory loss. Pet. App. __a.

The Ninth Circuit also relied on evidence concerning the consideration of remote needs assessments. It stated that TA considered conducting needs

assessments remotely but concluded that doing so could omit information such as concerns about hoarding and would assume consistent access to telephone or internet service, "which was not true for many" residents. Pet. App. __a.

The memorandum also cited Bennett's declaration in addressing other proposed accommodations. Bennett discussed COVID-19 infection-control considerations associated with resident contact, including masking, testing, PPE, and other measures, and the court stated that those accommodations could not "fully account for the risk of exposing residents or employees to COVID-19." Pet. App. __a. Bennett's declaration addressed infection-control considerations relating to nursing homes, assisted living, home- and community-based services, caregivers, resident contact, PPE, and isolation practices. D. Ct. Dkt. 148.

The Ninth Circuit further relied on evidence concerning SHA. It stated that SHA "had indicated it would soon require all contractors working with [its] residents to be vaccinated." Pet. App. __a. Brandt's declaration stated that, "[e]ven if FLC found a way for Ms. Mohamed to fulfill her essential duties while unvaccinated," SHA would not permit Mohamed to work with its residents. D. Ct. Dkt. 147 ¶ 11. Brandt stated that if FLC insisted that SHA permit Mohamed to work with residents while unvaccinated, FLC "could risk losing" its SHA contract, which she stated could result in lost income and layoffs. *Ibid.* Brandt elsewhere stated that SHA "contractually required all FLC's employees be vaccinated." *Id.* ¶ 8.

The Ninth Circuit also cited FLC's staffing circumstances. It stated that FLC employed one other MHSC, who already had a full workload, and that FLC had no other open positions for which Mohamed was qualified. Pet. App. __a.

The Ninth Circuit's disposition framed the ultimate undue-hardship determination in terms of FLC. It concluded that "there is no genuine dispute of material fact that accommodating Mohamed's request for religious exemption from the vaccine policy would impose an undue hardship on the conduct of Full Life Care's business." Pet. App. __a.

The court also stated that "Mohamed submitted no evidence in opposition to summary judgment and failed to rebut Defendants' demonstration of undue hardship." Pet. App. __a. The court therefore affirmed summary judgment on Mohamed's failure-to-accommodate claim. It also concluded that Mohamed had forfeited her retaliation claim and declined to consider certain arguments raised for the first time on appeal.

The Ninth Circuit entered judgment on June 16, 2026. This petition follows.

REASONS FOR GRANTING THE PETITION

I. The Courts of Appeals Are Divided Over What an Employer Must Establish To Demonstrate Undue Hardship Under *Groff*

A. The Third, Seventh, and Eighth Circuits require proof of an objective and sufficiently real hardship arising from the accommodation

Seventh Circuit. The Seventh Circuit has addressed most directly the distinction presented here. In *Kluge v. Brownsburg Community School Corp.*, 150 F.4th 792 (7th Cir. 2025), an orchestra teacher obtained an accommodation permitting him to address students by their last names rather than use first names inconsistent with his religious beliefs. *Id.* at 796–97. The school later withdrew the accommodation after concluding that it caused students emotional harm and disrupted the educational environment. *Id.* at 797–800.

Reversing summary judgment, the Seventh Circuit held that the employer bears the burden to "prove undue hardship arising from the accommodation." *Id.* at 807. Of particular significance here, the court distinguished an employer's judgment about the consequences of an accommodation from the **"factual predicate for the hardship in dispute."** *Id.* at 807 n.10. Because the record contained conflicting evidence concerning the effects attributable to Kluge's accommodation, the court concluded that material factual disputes remained. *Id.* at 808–10. *Kluge* therefore recognizes a distinction central to this case: an employer may assess the consequences that would follow from particular circumstances, but the factual predicates making those consequences applicable remain matters the employer must establish.

Eighth Circuit. *Naylor v. County of Muscatine*, 151 F.4th 973 (8th Cir. 2025), applies the same principle to asserted business and contractual consequences. There, a county terminated a jail administrator following religiously motivated social-media posts and maintained that accommodation would damage the County's reputation and threaten relationships with entities contracting to house inmates at the jail. *Id.* at 975–78. The Eighth Circuit held that undue hardship must be "real rather than speculative, merely conceivable, or hypothetical." *Id.* at 977. Although the County identified potentially serious consequences—including harm to business relationships—the evidence did not eliminate factual disputes over whether those consequences would materialize. *Id.* at 977–78. Thus, the potential magnitude

of losing contractual relationships did not itself establish the factual basis necessary to connect the accommodation to that loss.

Third Circuit. Safety concerns received similar treatment in *Smith v. City of Atlantic City*, 138 F.4th 759 (3d Cir. 2025). Smith, an Air Mask Technician employed by the Atlantic City Fire Department, sought a religious accommodation allowing him to maintain a beard despite concerns that facial hair could interfere with the seal of breathing equipment used during fire suppression. *Id.* at 768–69. The Third Circuit recognized the City's legitimate safety interest but explained that "mere recitation of an interest does not establish undue hardship." *Id.* at 774–75. The record showed only a "vanishingly small risk" that Smith would actually be called upon to perform firefighting activities requiring the equipment. *Id.* at 775. The City therefore had not "undisputably shown" that the accommodation would impose an undue hardship. *Ibid.* *Smith* demonstrates that even where the predicted consequence concerns safety, the seriousness of that consequence does not substitute for establishing the circumstances connecting the particular accommodation to the asserted risk.

Taken together, *Smith*, *Kluge*, and *Naylor* require the employer to establish more than the importance of the interest at stake or the plausibility of an anticipated consequence. Each requires an objective and sufficiently real hardship arising from the accommodation itself before the employer may prevail on undue hardship as a matter of law.

B. The First, Sixth, and Ninth Circuits permit prospective assessments of undue hardship based on information available at the time of the accommodation decision

The **Ninth Circuit** addressed prospective hardship expressly in *Petersen v. Snohomish Regional Fire & Rescue*, 150 F.4th 1211 (9th Cir. 2025). Eight firefighters sought religious exemptions from a COVID-19 vaccination requirement, and Snohomish Regional Fire & Rescue ("SRFR") concluded that accommodating them in their existing roles would impose substantial health, operational, contractual, and liability burdens. *Id.* at 1216–22. The court rejected the proposition that "undue hardship" is limited to "realized hardships." *Id.* at 1222. An employer may consider the "risk of hardship," the court held, provided that the risk is "realistic" rather than "merely conceivable or hypothetical." *Ibid.*

That principle permitted SRFR to rely on consequences that had not yet materialized. The Washington Department of Corrections ("DOC") had advised SRFR that contractors working onsite would be required to provide proof of vaccination and that failure to do so "may result" in denial of entry. *Id.* at 1221.

Because SRFR received nearly $400,000 annually under its DOC contract, the Ninth Circuit concluded that SRFR had a "reasonable concern" that accommodating unvaccinated firefighters could result in loss of the contract—a potential loss the court characterized as a "textbook economic hardship." *Id.* at 1221–22. The court also permitted SRFR to consider prospective legal exposure after its insurer advised that it would not defend or indemnify claims arising from an unvaccinated employee's transmission of COVID-19. *Id.* at 1222. Thus, the Ninth Circuit did not require SRFR to wait for contract loss or liability to occur before those consequences could enter the undue-hardship analysis.

The **First Circuit** similarly evaluated an employer's assessment from the information available when the accommodation decision was made. In *Rodrique v. Hearst Communications, Inc.*, 126 F.4th 85 (1st Cir. 2025), a news photographer sought a religious exemption from Hearst's COVID-19 vaccination requirement. *Id.* at 87–88. The employee challenged Hearst's conclusion that vaccination reduced transmission and argued that later evidence undermined that premise. *Id.* at 90–92. The First Circuit nevertheless affirmed summary judgment because the undisputed record showed that Hearst had "reasonably relied on objective medical evidence," including contemporaneous public-health guidance, when assessing the transmission risk. *Id.* at 91–94. The court's inquiry therefore focused on the objective information available to Hearst when it made the accommodation decision rather than requiring later proof that the anticipated harm ultimately materialized. *Ibid.*

The **Sixth Circuit** likewise evaluated undue hardship using circumstances known at the relevant time. In *Henry v. Southern Ohio Medical Center*, 155 F.4th 620 (6th Cir. 2025), Southern Ohio Medical Center ("SOMC") granted a licensed practical nurse a religious exemption from vaccination but required her to undergo weekly COVID-19 testing. *Id.* at 624–27. Henry, who regularly had direct contact with pediatric patients, including newborns, sought accommodation from the testing requirement. *Ibid.* The record addressed the vulnerability of SOMC's patients, the available testing methods, the time required to obtain results, and the resulting period during which an infected but asymptomatic employee could continue working around patients. *Id.* at 631–33. The Sixth Circuit explained that "in determining whether an accommodation would pose an undue hardship, an employer is permitted to draw conclusions based on evidence and information that was available at the time." *Id.* at 632. It affirmed the conclusion that Henry's proposed accommodations would impose undue hardship. *Id.* at 632–33.

Although these decisions arose in different factual settings, they share a common feature. *Petersen* permitted reliance on realistic risks of future

contractual and liability consequences; *Rodrique* relied on contemporaneous objective medical evidence concerning transmission; and *Henry* relied on evidence concerning direct patient contact and available testing alternatives. Each permitted undue hardship to be assessed prospectively from information and circumstances available when the accommodation decision was made, without requiring the employer to await realization of the anticipated harm.

That approach stands in tension with decisions requiring a more concrete showing that the asserted hardship objectively arises from the particular accommodation. *See Kluge v. Brownsburg Community School Corp.*, 150 F.4th 792, 807 & n.10 (7th Cir. 2025); *Naylor v. County of Muscatine*, 151 F.4th 973, 977–78 (8th Cir. 2025); *Smith v. City of Atlantic City*, 138 F.4th 759, 774–75 (3d Cir. 2025). The disagreement therefore concerns not simply whether future consequences may be considered, but what showing is sufficient to establish prospective undue hardship under § 2000e(j).

That distinction matters here. Mohamed does not contend that an employer must wait until a predicted injury, contractual loss, or other substantial burden actually occurs. Her question arises one step earlier: whether the employer must establish the material factual predicates connecting the particular accommodation to the predicted consequence before that consequence may satisfy the employer's burden under § 2000e(j). Predicting what consequences will follow from established circumstances is different from using the predicted consequences to supply the circumstances necessary for the prediction itself.

The issue is particularly significant in light of the pending petition in *Petersen v. Snohomish Regional Fire & Rescue*, No. 25-1210. *Petersen* concerns the showing required when an employer relies on anticipated hardship. Mohamed presents the related antecedent question concerning the factual premises from which such a prediction may proceed. Petersen asks about the prediction; Mohamed asks about the premises.

II. This Case Presents the Antecedent Question Exposed by the Circuit Conflict: What Factual Foundation Must Connect the Particular Accommodation to the Asserted Undue Hardship

The disagreement described above exposes a logically prior question that *Groff* did not have occasion to resolve. Mohamed does not contend that an employer must wait for an anticipated hardship to materialize before denying an accommodation. The question is instead what the employer must establish before a predicted health, safety, operational, contractual, financial, or legal consequence may be attributed to the particular accommodation requested.

Title VII places that burden on the employer. The statute requires an employer to reasonably accommodate an employee's religious observance or practice unless the employer "demonstrates that he is unable to reasonably accommodate" it "without undue hardship on the conduct of the employer's business." 42 U.S.C. § 2000e(j). In *Groff v. DeJoy*, 600 U.S. 447 (2023), this Court held that the employer must show that "the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." *Id.* at 470. The inquiry considers "all relevant factors in the case at hand," including "the particular accommodations at issue and their practical impact" in light of the nature, size, and operating cost of the employer. *Id.* at 470–71.

Groff also illustrates why the connection between an asserted consequence and the employer's business cannot simply be assumed. Addressing impacts on coworkers, the Court recognized that such effects might have ramifications for the conduct of the employer's business, but explained that a court "cannot stop its analysis without examining whether that further logical step is shown in a particular case." *Id.* at 472. The same principle applies to the factual steps preceding a predicted hardship. Predicting what consequences will follow from established circumstances is different from using the predicted consequences to supply the circumstances necessary for those consequences to arise.

The EEOC's regulation reinforces that requirement. A refusal to accommodate is justified only when the employer "can demonstrate that an undue hardship would in fact result" from an available method of accommodation. 29 C.F.R. § 1605.2(c)(1). The Commission's enforcement guidance likewise explains that an employer may lack the evidence necessary to carry its burden where it cannot establish that the employee's proposed accommodation "would actually have posed an undue hardship." U.S. Equal Emp. Opportunity Comm'n, *Compliance Manual on Religious Discrimination* § 12-IV-A-2, EEOC-CVG-2021-3 (Jan. 15, 2021). Although that guidance predates *Groff*, and its former de-minimis formulation has been superseded, the pertinent principle is consistent with the statute's allocation of the burden: the employer must demonstrate the hardship attributable to the particular accommodation.

This Court's construction of analogous accommodation language confirms that allocation. The ADA requires accommodation unless the employer can "demonstrate that the accommodation would impose an undue hardship." 42 U.S.C. § 12112(b)(5)(A). In *Board of Trustees of University of Alabama v. Garrett*, 531 U.S. 356 (2001), this Court explained that the provision "makes it the employer's duty to prove that it would suffer such a burden," rather than requiring the employee to "negate reasonable bases for the employer's decision." *Id.* at 372. The statutory standard differs, but the

allocation principle is instructive: when Congress places the duty to "demonstrate" undue hardship on the employer, the employer must prove the burden rather than require the employee to disprove possible grounds for predicting it.

The post-*Groff* decisions discussed above underscore the importance of the evidentiary foundation for an asserted hardship. In *Kluge v. Brownsburg Community School Corp.*, 150 F.4th 792 (7th Cir. 2025), the Seventh Circuit emphasized that "it is the employer's burden to prove undue hardship arising from the accommodation." *Id.* at 807. The employer must establish an objective undue hardship on its business rather than merely a hardship it subjectively perceived. *Ibid.* Particularly relevant here, the court rejected an analogy because, "[w]ithout the factual predicate for the hardship in dispute," the analogy did not hold. *Id.* at 807 n.10. The predicted consequence did not eliminate the antecedent need for the factual circumstance that made the consequence applicable.

The Third Circuit's decision in *Smith v. City of Atlantic City*, 138 F.4th 759 (3d Cir. 2025), reflects the same principle. The employer invoked employee safety in defending its refusal to accommodate an Air Mask Technician's religious beard. The legitimacy of the safety interest was not enough by itself. The court explained that "mere recitation of an interest does not establish undue hardship." *Id.* at 774–75. On the record before it, the risk that the employee would be required to perform the particular firefighting activity giving rise to the asserted safety concern was "vanishingly small," and the employer had not "undisputably shown" undue hardship. *Id.* at 775.

Likewise, *Naylor v. County of Muscatine*, 151 F.4th 973 (8th Cir. 2025), required the asserted hardship to be real rather than speculative, merely conceivable, or hypothetical. *Id.* at 977–78. None of these decisions requires an employer to wait for harm to occur. They instead illustrate why the seriousness of an asserted consequence cannot substitute for an evidentiary basis connecting the particular accommodation to that consequence.

Petersen v. Snohomish Regional Fire & Rescue, 150 F.4th 1211 (9th Cir. 2025), addresses the related but distinct question of prospective hardship. There, the Ninth Circuit held that an employer need not wait until a predicted loss has materialized; anticipated hardship may qualify when the risk is "realistic" rather than "merely conceivable or hypothetical." *Id.* at 1222. But *Petersen* proceeded from established working circumstances. Snohomish Regional Fire & Rescue responded to approximately 18,000 emergency calls in 2021, approximately 85 percent involving emergency medical services. Its firefighters worked 24-hour shifts in stations functioning as workplace, home, and gym, and their duties involved interactions with coworkers and members of the public. *Id.* at 1213–15. Against those established circumstances, the

court evaluated the health, operational, contractual, and liability consequences expected to result from permitting unvaccinated firefighters to remain in those positions.

Petersen therefore proceeded from a factual premise to a predicted consequence. It did not use the seriousness of the predicted consequence to establish the firefighters' underlying working circumstances. That distinction is central here. ***Petersen* asks about the prediction; Mohamed asks about the premises from which the prediction proceeds.**

The Ninth Circuit's subsequent decision in *Luxton v. Washington State Department of Veterans Affairs*, No. 25-3542 (9th Cir. June 25, 2026), illustrates the distinction in the Ninth Circuit's own application of *Petersen*. Luxton maintained that he could perform his position entirely through telework. Before assessing the health consequences associated with allowing him to remain unvaccinated, the court addressed whether his position actually required physical presence. It concluded that "the undisputed evidence shows that he had duties which required him to appear in person." *Id.*, slip op. 2.

The court identified the evidence establishing that predicate. Luxton's signed job description assigned him responsibility for clinical oversight of more than forty contract therapists, identified site visits as the primary means of evaluating contractors, and made statewide travel a condition of employment. The court considered Luxton's contrary reliance on language authorizing up to 100 percent telework and concluded that the qualified authorization did not create a genuine dispute concerning the position's in-person requirements.

Only after resolving that premise did the court assess the consequence: allowing Luxton to perform those established in-person functions while unvaccinated would increase health risks to employees and vulnerable veterans. *Luxton* thus illustrates two analytically distinct steps: first, establish the circumstances making the predicted hardship applicable; second, determine whether the consequences expected to follow from those circumstances constitute undue hardship.

Mohamed's case presents the antecedent question illustrated by that sequence. Mohamed sought a religious exemption from vaccination. She did not seek an exemption from performing her job duties. Yet the undue-hardship determination depended on additional propositions concerning in-person resident contact, transmission risk, testing and PPE, additional staffing, SHA's vaccination requirements, potential loss of FLC's SHA contract, and potential legal liability. Those propositions came from different declarants addressing different entities and different predicted consequences. The question is whether the material factual links connecting Mohamed's

particular vaccination exemption to those consequences formed part of the showing FLC and TA were required to make.

The threshold in-person-contact premise is illustrative. The district court acknowledged that Mohamed had been "allowed to perform her job entirely remotely during an earlier phase of the COVID-19 pandemic," but found that by the time of the vaccination requirement employees "including Mohamed" had "returned to working in person at least some of the time." Pet. App. __a n.2. From that premise, the court reasoned that allowing Mohamed to remain unvaccinated would put her clientele at risk and expose "Defendants" to liability, that testing, masking, or eliminating in-person work would inadequately address those concerns or be cost-prohibitive, and that another employee would be required to perform the in-person portions of Mohamed's position. Pet. App. __a.

The three principal declarations, however, did not expressly identify when Mohamed herself resumed in-person resident-facing duties following the acknowledged period of remote work. Farr described the duties associated with the MHSC position and FLC's staffing circumstances but did not identify an effective return-to-in-person date, a resident visit Mohamed performed during the relevant period, or another particular resident-facing activity establishing that her remote arrangement had ended. Bennett stated that Mohamed's duties involved traveling to and from resident homes during a workday but likewise did not identify when such travel resumed following the period of remote work. Brandt described TA's accommodation process, remote-assessment considerations, and SHA-related requirements, but did not supply a date on which Mohamed resumed resident-facing work.

The record also contained evidence bearing on that premise. Mohamed testified that her remote-work arrangement continued through termination. Shortly before her accommodation request, FLC's September 8, 2021 communication stated that its Back to Work Committee was still "working towards creating a re-opening strategy" and that vaccination information was being collected for its "contingency and re-opening strategies." After the September 29 denial, Mohamed's supervisor scheduled an October 13 supervision meeting through Microsoft Teams and separately addressed the return of FLC equipment and Mohamed's SHA keycard on her final day.

The Ninth Circuit did not repeat the district court's historical finding that Mohamed had returned to working in person "at least some of the time." Instead, it stated that "[u]nrebutted evidence shows that Full Life Care could not reasonably accommodate Mohamed's request" because "her role requires essential in-person contact with vulnerable populations." Pet. App. __a. It relied on the MHSC job description and Farr's evidence that an MHSC

"typically performs multiple visits per day to residents' homes," along with TA's assessment of the limitations of remote needs assessments. Pet. App. __a.

But what an MHSC position generally requires and what an MHSC "typically" performs do not themselves establish the historical proposition that Mohamed had resumed those activities during the relevant period. General evidence concerning the position's ordinary or eventual requirements does not necessarily eliminate contrary evidence concerning what the particular employee was actually doing under the working arrangement in effect when the accommodation was denied.

That distinction is particularly important at summary judgment. The evidence must be viewed, and reasonable inferences drawn, in favor of the nonmoving party. *Tolan v. Cotton*, 572 U.S. 650, 657 (2014) (per curiam); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). Mohamed does not ask this Court to decide the historical work-status dispute itself. The legal question is whether the circumstance connecting her vaccination exemption to the asserted resident-contact consequences was part of FLC and TA's burden to establish before those consequences could constitute undue hardship.

The health-and-safety theory depended on that connection. Bennett discussed serious infection-control concerns associated with an unvaccinated employee traveling between residents' homes, resident contact, PPE, isolation practices, and COVID-19 transmission. The Ninth Circuit relied on Bennett in concluding that alternative measures could not "fully account for the risk of exposing residents or employees to COVID-19." Pet. App. __a.

The validity of infection-control principles is not disputed here, nor does Mohamed challenge Bennett's expertise. The relevant question is their factual fit. Bennett's stated subject-matter experience and analysis addressed nursing homes, assisted living, home- and community-based services, caregivers, movement between residents, PPE and N-95 protocols, and related institutional infection-control concerns. The record identified Mohamed as an FLC MHSC serving SHA Scattered Sites residents through FLC's SHA contract, performing advocacy, case management, referrals, resource coordination, and housing-stabilization functions. It did not identify Mohamed as a caregiver in a nursing home or assisted-living facility.

Nor did the record identify Mohamed's SHA residents as TA residents or clients or establish that her FLC–SHA assignment exposed TA's employees, workforce, or staff in the manner addressed by TA-centered health-and-safety evidence. Bennett's analysis was framed substantially through TA's institutional responsibilities, including the consequences TA leadership associated with protecting clients and employees. The issue is not whether such evidence could ever support a hardship on FLC. It plainly could if the

necessary factual connection were established. The question is whether the applicability of those institutional circumstances to Mohamed's particular FLC assignment itself part of the showing was required before their predicted consequences could be attributed to FLC's particular business.

The testing and PPE theories similarly depended upon the circumstances in which Mohamed would perform her work if exempted. The burdens associated with repeated testing, delayed results, masks, PPE, or other protective measures became relevant to Mohamed insofar as granting her vaccination exemption would place her in circumstances requiring those measures to address the asserted risk. The seriousness of transmission risk does not itself establish the antecedent circumstances that make those measures necessary.

The staffing theory added another factual step. Farr stated that FLC's other MHSC already carried a full workload and that hiring another employee "just to cover this one aspect" of Mohamed's position would be financially prohibitive. D. Ct. Dkt. 149 ¶ 12. The district court similarly reasoned that another employee would have to perform the in-person portions of Mohamed's position.

But Mohamed requested an exemption **from vaccination**, not an exemption from performing an essential job function. The predicted staffing expense therefore depended on an additional proposition: that granting the vaccination exemption would prevent Mohamed from performing duties that had to be performed in person under the circumstances applicable to her and would consequently require transferring those duties to another employee. The cost of hiring an additional employee may plainly be relevant to undue hardship. But the magnitude of that cost cannot itself establish the factual premise that an additional employee would be necessary.

The SHA-contract theory involved still another causal chain. Brandt stated in paragraph 8 of her declaration that SHA "contractually required all FLC's employees be vaccinated." D. Ct. Dkt. 147 ¶ 8. Three paragraphs later, however, she described SHA's position prospectively: SHA "had indicated it would soon require all contractors working with SHA residents to be vaccinated." *Id.* ¶ 11. The two statements therefore described SHA's vaccination position in different temporal formulations—one as an existing contractual requirement and the other as a requirement SHA had indicated it would soon impose.

More importantly, Brandt expressly stated that, "[e]ven if FLC found a way for Ms. Mohamed to fulfill her essential duties while unvaccinated," SHA would not permit her to work with its residents. *Ibid.* Brandt then predicted that if FLC "insisted" otherwise, FLC "could risk losing" its SHA contract,

leading to lost income and layoffs. *Ibid.* On that account, the predicted contract loss depended not merely on FLC's own accommodation decision, but on an additional restriction attributed to SHA that would operate even if FLC found a way for Mohamed to fulfill her essential duties while unvaccinated.

That made the SHA restriction an intermediate predicate connecting Mohamed's accommodation to the predicted burden on FLC. The relevant contractual relationship identified in the record was between **FLC and SHA**, not TA and SHA. Brandt did not identify the contractual provision underlying the statement in paragraph 8, explain whether paragraphs 8 and 11 referred to the same requirement, identify the effective date or precise terms of the anticipated requirement described in paragraph 11, or state whether that separate SHA requirement independently foreclosed religious exemptions.

The accommodation process adds context to that chain. TA administered the vaccination policy and Mohamed's religious-accommodation request. Brandt stated that TA's panel consulted medical and legal professionals, governmental and medical authorities, an infectious-disease expert, and SHA. But the declarations, as reflected in this record, did not identify Mohamed's FLC supervisor, FLC management, or FLC human-resources personnel among the sources consulted concerning Mohamed's actual working circumstances. Farr, FLC's declarant, did not state that she participated in TA's accommodation panel or supplied the panel with information concerning Mohamed's particular working arrangement.

Those facts matter not because Title VII requires a particular internal decision-making procedure, but because the ultimate statutory conclusion was that accommodation would burden **FLC's particular business**. The Ninth Circuit ultimately held that there was no genuine dispute that accommodating Mohamed would impose an undue hardship "on the conduct of Full Life Care's business." Pet. App. __a. The factual chain underlying the SHA theory therefore ran from Mohamed's exemption under the TA-administered policy, to the work FLC would permit her to perform, to SHA's separate vaccination restriction, to the restriction's applicability to Mohamed, to SHA's refusal to permit the accommodation, to FLC's hypothetical insistence otherwise, and finally to the predicted risk of losing **FLC's** SHA contract.

The potential loss of a significant contract could plainly constitute a substantial business consequence. But the magnitude of that endpoint does not itself establish the factual and contractual predicates connecting Mohamed's particular exemption to it. The consequence cannot do double duty as both the hardship and the factual premise necessary to make that hardship applicable.

The asserted legal exposure presented the same problem. Bennett predicted a "real risk" of "financial or even criminal penalties" if Mohamed

transmitted COVID-19 to a resident who died. The district court likewise reasoned that allowing Mohamed to remain unvaccinated would expose "Defendants" to liability. Pet. App. __a. Those consequences are serious. But their seriousness does not answer the antecedent questions necessary to connect Mohamed's exemption to them.

The prediction proceeded through multiple propositions: Mohamed would receive the exemption; she would perform work involving resident contact while unvaccinated; she would transmit COVID-19; the resident would suffer serious harm or death; the transmission would create legally cognizable liability; and FLC or TA would incur the predicted financial or criminal consequence. As reflected in the record materials at issue, Bennett did not identify the particular statute, regulation, contractual provision, or other legal source under which **granting Mohamed's religious exemption itself** would expose FLC or TA to criminal penalties.

The district court also expressly noted that FLC and TA did "not argue that they were required by the Governor to impose a vaccine mandate." Pet. App. __a n.1. Instead, they "elected to impose a vaccine requirement after reviewing guidance from multiple sources." *Ibid.* Mohamed does not contend that liability could never have arisen. The narrower point is that the gravity of a predicted "financial or even criminal" consequence cannot itself establish either the factual pathway necessary for that consequence to occur or the legal predicate necessary for liability to attach.

The district court and Ninth Circuit's reliance on the absence of rebuttal brings the antecedent question into especially sharp focus. The district court stated that "[t]he evidence Defendants have submitted amply supports a finding of undue hardship" and emphasized that the evidence was "unrebutted in the record before the Court." Pet. App. __a. The Ninth Circuit likewise began its analysis by stating that "[u]nrebutted evidence" showed that FLC could not reasonably accommodate Mohamed and later stated that "Mohamed submitted no evidence in opposition to summary judgment and failed to rebut Defendants' demonstration of undue hardship." Pet. App. __a.

But **"unrebutted" describes the response to a showing; it cannot enlarge the showing.** Section 2000e(j) places the burden of demonstrating undue hardship on the employer. An absence of additional evidence from the employee cannot supply a material predicate absent from the employer's own showing.

The ordinary summary-judgment rules reinforce that distinction. Under *Anderson*, a court determines whether the record presents a genuine dispute requiring trial, viewing the evidence through the governing substantive burden. 477 U.S. at 248, 255. And *Tolan* reiterates that courts at summary

judgment must view the evidence and draw reasonable inferences in favor of the nonmoving party. 572 U.S. at 657. Thus, the absence of rebuttal cannot eliminate a reasonable contrary inference arising from evidence already in the record.

That is important here because the record itself contained Mohamed's testimony that her remote arrangement continued through termination, FLC's contemporaneous statement that it was still "working towards creating a re-opening strategy," and continued Microsoft Teams supervision shortly before termination. Mohamed does not ask this Court to decide what those facts ultimately prove. Their relevance here is narrower: evidence describing what an MHSC "typically" does cannot automatically convert a disputed or unestablished antecedent proposition concerning Mohamed's own working circumstances into an undisputed fact simply because Mohamed did not submit additional summary-judgment evidence.

Nor does this case ask the Court to constitutionalize Rule 56 or engage in ordinary error correction. The question is logically prior to whether any particular piece of evidence should prevail. It concerns the **content of the employer's substantive burden under Title VII**. If § 2000e(j) requires an employer to establish a material factual predicate necessary to connect the particular accommodation to the asserted hardship, a court must determine whether that predicate was part of the employer's showing before asking whether the employee rebutted it. If Title VII permits the predicted consequence itself to supply that predicate, the employer's burden is materially different.

The entity-specific evidence reinforces why the answer matters. The district court treated FLC and TA collectively as "Defendants." Farr addressed FLC's staffing and FLC's SHA contract. Bennett supplied health-and-safety and liability analysis framed substantially through TA's institutional concerns. Brandt described TA's accommodation process and what SHA was expected separately to require. The Ninth Circuit, however, ultimately located the statutory hardship in **"Full Life Care's business."** Pet. App. __a. Title VII's focus on the employer's "particular business," *Groff*, 600 U.S. at 470, makes the factual connections among those propositions part of—not a substitute for—the undue-hardship inquiry.

Mohamed therefore does not ask this Court to reweigh the declarations, determine witness credibility, decide whether COVID-19 vaccination policies were generally appropriate, or prescribe the precise factual predicates necessary in every religious-accommodation case. She does not contend that employers may never rely on prospective health risks, future contractual restrictions, anticipated staffing costs, evidence from affiliated entities, or third-party requirements. And she does not ask the Court to hold that an

employer must experience infection, contract loss, litigation, or financial injury before denying an accommodation.

Nor does Mohamed ask this Court to determine whether she could have remained remote indefinitely, whether SHA ultimately would have permitted her to work with residents while unvaccinated, or whether FLC or TA ultimately could have incurred liability. For purposes of the Question Presented, the declarations considered by the courts below may be assumed properly before them.

The question is narrower and antecedent: **when the employer bears the burden of demonstrating undue hardship, must it establish the material factual predicates connecting the particular religious accommodation to the asserted substantial burden on the conduct of its business, or may the asserted consequence itself supply a predicate necessary to make that consequence applicable?**

The statute, *Groff*, the EEOC's regulation, and the developing post-*Groff* decisions point toward the former. Section 2000e(j) requires the employer to "demonstrate[]" inability to accommodate without undue hardship. *Garrett* confirms the significance of placing the duty to prove hardship on the employer. *Groff* requires examination of the "particular accommodation[]" and its practical impact on the employer's "particular business" and instructs courts not to stop before determining whether a necessary "further logical step is shown in a particular case." 600 U.S. at 470–72. *Kluge* expressly recognizes the need for the "factual predicate for the hardship in dispute." 150 F.4th at 807 n.10. *Smith* demonstrates that even a legitimate safety interest does not establish undue hardship merely by being invoked. 138 F.4th at 774–75. *Naylor* requires a sufficiently real rather than merely conceivable or hypothetical hardship. 151 F.4th at 977–78. And *Luxton* illustrates the Ninth Circuit itself first establishing the physical-presence predicate before evaluating the health consequences expected to follow.

That rule leaves employers fully able to act prospectively. It requires no employer to wait for harm. It simply distinguishes **forecasting the consequences of established circumstances from using the forecast to establish the circumstances themselves**.

That distinction is outcome-determinative here. The asserted health, testing, PPE, staffing, contractual, financial, and liability consequences all depended upon intermediate propositions connecting Mohamed's particular vaccination exemption to a substantial burden on FLC's business. Whether Title VII required those predicates to be established as part of FLC and TA's showing was logically prior to whether their predicted consequences were sufficiently serious.

The Court should grant review to resolve that antecedent question.

III. The Question Presented Is Important and Recurring

The Question Presented is recurring because it arises whenever an employer invokes anticipated consequences to establish undue hardship. *Groff* requires courts to evaluate "the burden of granting an accommodation" in relation to "the conduct of [the employer's] particular business," taking account of "all relevant factors in the case at hand," including "the particular accommodations at issue and their practical impact." 600 U.S. 447, 470–71 (2023). When the asserted hardship consists of anticipated health, safety, operational, contractual, financial, or legal consequences, that inquiry necessarily raises the question presented here: what factual foundation must connect the particular accommodation to the consequence asserted?

Recent post-*Groff* decisions already demonstrate the issue. In *Kluge v. Brownsburg Community School Corp.*, 150 F.4th 792 (7th Cir. 2025), the Seventh Circuit emphasized that "it is the employer's burden to prove undue hardship arising from the accommodation," *id.* at 807 and separately identified the importance of the "factual predicate for the hardship in dispute," *id.* at 807 n.10. In *Luxton v. Washington State Department of Veterans Affairs*, No. 25-3542 (9th Cir. June 25, 2026), the Ninth Circuit likewise resolved the factual premise underlying the asserted hardship before assessing its consequences. Faced with the employee's contention that he could work entirely through telework, the court first concluded that "the undisputed evidence" established duties requiring his physical presence. Only then did it assess the health-and-safety consequences of permitting an unvaccinated employee to perform those established in-person functions. Those decisions illustrate that the circumstances giving rise to an asserted hardship and the consequences predicted to follow from those circumstances are analytically distinct.

The issue extends far beyond vaccination disputes. Religious accommodations involving Sabbath observance and scheduling, grooming and dress requirements, reassignment, customer or patient contact, workplace-safety requirements, and remote or modified work may all generate predictions of future operational, financial, contractual, or safety consequences. In each setting, the magnitude of the predicted consequence answers only part of the statutory inquiry. A substantial potential loss does not itself establish that granting the accommodation would expose the employer to that loss. A grave safety consequence does not itself establish that the employee would encounter the circumstances necessary to create that danger. And a substantial operational burden does not itself establish that granting the accommodation would require the operational change from which that burden is predicted to follow.

The Question Presented is also important because it concerns the allocation of Title VII's statutory burden, not merely the weight assigned to particular evidence. Section 2000e(j) requires the employer to "demonstrate[]" that it is unable reasonably to accommodate the employee's religious practice "without undue hardship on the conduct of the employer's business." 42 U.S.C. § 2000e(j). In construing analogous accommodation language, this Court has explained that it is "the employer's duty to prove that it would suffer such a burden," rather than the employee's obligation to "negate reasonable bases for the employer's decision." *Bd. of Trs. of Univ. of Ala. v. Garrett*, 531 U.S. 356, 372 (2001).

That allocation is directly implicated by the decisions below. The district court characterized FLC's and TA's evidence supporting undue hardship as "unrebutted in the record" and concluded that FLC and TA had therefore met their burden to establish the absence of a genuine dispute precluding summary judgment. Pet App. __. The Ninth Circuit likewise affirmed because "[u]nrebutted evidence" showed that FLC could not reasonably accommodate Mohamed's religious exemption without undue hardship. App. __. But "unrebutted" describes the employee's response to the employer's showing; it does not define the content of the showing Congress required the employer to make. If a material factual predicate connecting the particular accommodation to the asserted hardship is part of what § 2000e(j) requires the employer to establish, characterizing the employer's evidence as "unrebutted" cannot itself supply a predicate absent from the employer's own showing or resolve a predicate as to which the record permits competing reasonable inferences.

The distinction is consequential. An employer may present unrebutted evidence that a particular consequence would be severe if specified circumstances existed without necessarily establishing that those circumstances existed or would result from granting the accommodation. Treating the absence of rebuttal as sufficient in that situation would effectively require the employee to negate a premise that the employer had the statutory burden to establish in the first instance. *Garrett* confirms the opposite allocation: the employer bears the duty to prove the burden, rather than requiring the employee to negate reasonable grounds for the employer's decision. 531 U.S. at 372.

The question has particular significance after *Groff*. This Court rejected a formulation under which relatively modest burdens could satisfy Title VII and instead required the employer to establish that "the burden of granting an accommodation" would be substantial in relation to "the conduct of its particular business." 600 U.S. at 470. The Court further directed lower courts to consider "all relevant factors in the case at hand," including "the particular accommodations at issue and their practical impact." *Id.* at 470–71. Those accommodation-specific and business-specific requirements would be

substantially weakened if the seriousness or plausibility of a predicted consequence could substitute for establishing a material factual premise necessary to connect the particular accommodation to that consequence.

The rapidly developing post-*Groff* case law makes clarification warranted now. Courts are already confronting asserted prospective health, safety, operational, contractual, financial, and legal burdens in determining whether religious accommodations would impose undue hardship. Unless the required factual foundation is clarified, courts may agree that *Groff* demands a substantial burden yet apply materially different rules concerning what an employer must establish before that burden may be attributed to granting the particular accommodation at all. The Question Presented thus concerns not merely how substantial an undue hardship must be, but the logically prior showing necessary to connect that hardship to the accommodation Congress requires employers to consider.

IV. This Case Is an Appropriate Vehicle, and the Pending *Petersen* Petition Provides an Additional Reason for This Court To Preserve the Question

This case cleanly presents the Question Presented. The district court assumed that Mohamed had established a prima facie religious-accommodation claim and entered summary judgment because it concluded that FLC and TA had established undue hardship. App. __. The Ninth Circuit affirmed on that same dispositive ground, concluding that "[u]nrebutted evidence" showed that FLC could not reasonably accommodate Mohamed's religious exemption from the vaccination requirement without undue hardship. App. __. The scope of the employer's showing under § 2000e(j) was therefore dispositive below.

The Question Presented is a legal one. Section 2000e(j) requires the employer to "demonstrate[]" that it cannot reasonably accommodate a religious practice "without undue hardship on the conduct of the employer's business." The question is whether that statutory showing requires the employer to establish a material factual predicate necessary to connect the particular accommodation to an asserted consequence, or whether the consequence itself may supply that predicate.

The Court need not identify the factual predicates required in every accommodation case. Those predicates necessarily vary with the accommodation, the asserted hardship, and the employer's particular business. The governing rule, however, does not: when a material factual premise is necessary to connect the particular accommodation to the asserted hardship, either § 2000e(j) requires the employer to establish that premise as

part of its undue-hardship showing, or it does not. The lower courts can apply that rule to the circumstances of particular cases.

That question was squarely implicated below. The Ninth Circuit rested its conclusion on "[u]nrebutted evidence" of undue hardship. App. __. But whether evidence is "unrebutted" is distinct from what § 2000e(j) requires the employer to establish in the first instance. If a material predicate is part of the employer's statutory burden, characterizing evidence concerning the asserted consequence as "unrebutted" cannot itself supply that predicate. Resolution of the Question Presented therefore would establish the governing legal standard, leaving its application to the record below in the ordinary course.

The pending petition in *Petersen v. Snohomish Regional Fire & Rescue*, No. 25-1210, provides an additional reason to preserve the Question Presented. *Petersen* concerns the showing required when an employer relies on prospective consequences to establish undue hardship; this case presents the logically antecedent question whether the employer must establish a material factual predicate necessary to connect the particular accommodation to that consequence. Put simply, *Petersen* asks about the prediction; Mohamed asks about the premises from which the prediction proceeds. The predicates will vary across accommodations and employers, but the governing rule does not: whether Title VII requires the employer to establish a material factual premise necessary to make the asserted hardship applicable to the particular accommodation.

Petersen therefore does not make this petition redundant. Even if this Court holds that an objectively grounded prospective assessment may establish undue hardship without awaiting realized harm, the Question Presented here would remain: whether the employer must establish the factual premise necessary to connect the particular accommodation to the predicted consequence, or whether the prediction may itself supply that premise. Conversely, if *Petersen* requires a more concrete showing of prospective hardship, its reasoning may materially affect the judgment below.

If the Court grants certiorari in *Petersen* before acting on this petition, it should hold this petition pending disposition of that case. After deciding *Petersen*, the Court can determine whether that decision resolves the Question Presented, warrants vacatur and remand for reconsideration under the clarified standard, or leaves Mohamed's antecedent question independently worthy of plenary review.

CONCLUSION

The petition for a writ of certiorari should be granted.

DATED: September 14, 2026

Respectfully Submitted,

s/Basra Mohamed
Basra Mohamed