

RELIGIOUS DISCRIMINATION ISSUES CAN ARISE IN UNEXPECTED WAYS

In recent months, plans to build a mosque blocks away from Ground Zero in New York City have led to a renewed focus on religious freedom in everyday life. In the workplace, Title VII of the Civil Rights Act of 1964 defines the rights of employees and responsibilities of employers, primarily by requiring employers to reasonably accommodate employees' "sincerely held religious beliefs," observances and practices unless doing so would impose an "undue burden" on the employer. Additionally, as in South Carolina and North Carolina, many states have laws and constitutional provisions that afford additional protections for employees.

So who decides whether an employee's religious beliefs are "sincerely held" – or, for that matter, whether the employee's beliefs constitute a "religion" eligible for protection? There's not an easy answer to this question.

On September 21, 2010, the U.S. Equal Employment Opportunity Commission (EEOC) sued Lawrence Transportation Systems, Inc. based on Title VII for refusing to hire Christopher Woodson as a loader. The EEOC alleges that the Virginia moving and storage company rejected Woodson, who is a Rastafarian, because he would not cut his dreadlocks for religious reasons. Woodson has 14 years of experience in the moving industry and he worked for Lawrence Transportation before becoming a practicing Rastafarian in 2004.

Lawrence Transportation has a personal grooming policy that requires men's hair to be neat and not below the shirt collar because employees have close personal contact with customers and are often in customers' homes. Woodson wears his hair in dreadlocks because Rastafarians encourage followers to refrain from cutting their hair.

Woodson suggested the company accommodate him by exempting him from the personal grooming policy and letting him tie his hair up or wear a cap over his head. The company stated such an exemption would impose an undue hardship and cause it to lose business. The EEOC is seeking compensatory and punitive damages for Woodson, among other relief.

Employer Best Practices

Complaints of religious discrimination at work have increased 87 percent in the past 10 years, according to the EEOC. Because of the wide array of religious beliefs that employers may encounter in the workplace and the question of whether religious beliefs and observances are "sincerely held," as illustrated by the Lawrence Transportation case, here are some points to consider in developing your company's policies and practices:

- The definition of "religion" is broad and covers traditional as well as sincerely held non-traditional beliefs.
- Ensure that employees know and understand all relevant policies, such as grooming and dress code as well as time-off from work requirements, and articulate why these policies are critical to your business.
- If an employee's religious practice conflicts with a job-related requirement, consider all reasonable accommodations and solicit ideas from the employee.
- Only take adverse action against an employee for a religious practice if, considering all mutually agreeable accommodations, the employee's observance would still create an "undue hardship" on the workplace – that is, something more than a *de minimis* cost, inconvenience or disruption.

Conclusion

As charges of religious discrimination increase, consider the broad spectrum of religious observances protected by Title VII and the importance of training managers about recognizing and dealing with religious accommodation issues. Employers who have questions about dealing with specific religious discrimination or Title VII compliance issues should contact their labor and employment attorney.

This Employment Law Update is published as a service to our clients and friends. It is intended to be informational and does not constitute legal advice regarding any specific situation.

N|P Employment and Labor Law Group

CHARLESTON

843.577.9440

Cherie Blackburn
Molly Hughes Cherry
Josh Ellis

CHARLOTTE

704.339.0304

Sean Phelan
Grainger Pierce

COLUMBIA

803.771.8900

Mike Brittingham
Jennie Cluverius
David Dubberly
Vickie Eslinger
William Floyd
Joan Hartley
Angus Macaulay
Susi McWilliams
Nikole Mergo
Sue Odom

GREENSBORO

336.373.1600

Peter Pappas
Bill Wilcox

GREENVILLE

864.370.2211

Grant Burns
Jamie Hedgepath
Leon Harmon
Rusty Infinger
Michael Pitts
Tom Stephenson

HILTON HEAD

843.689.6277

Melissa Azallion

MYRTLE BEACH

843.213.5400

Cherie Blackburn
Molly Hughes Cherry

RALEIGH

919.755.1800

David Garrett
Ernie Pearson
David Robinson

NEXSEN | PRUET

