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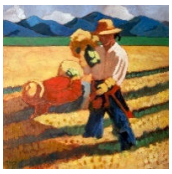

Employment Law Note

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Suarez v. State: Developments in Religious Accommodations Law

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In recent months, the prevailing case law governing a Washington employer's obligation to accommodate an employee's religious practices has dramatically shifted in a pro-employer direction. This note explores these doctrinal changes and clarifies the operative standard for employers today.

Background

In a 2019 Yakima County Superior Court case entitled *Suarez v. State*, plaintiff Adelina Suarez – a devout Christian – alleged her public employer, Yakima Valley School ("School"), failed to grant her request for a reasonable religious accommodation and terminated her in violation of public policy and Washington's Law Against Discrimination ("WLAD"). Eventually, discovery confirmed that Ms. Suarez was denied requests for time off to attend church and that, to self-help, Ms. Suarez began skipping work to attend religious festivals or observe the Saturday sabbath. A position opened up that would have better accommodated Ms. Suarez's unpredictable schedule, but Ms. Suarez failed to apply and the position went to another employee who did apply. The School ultimately terminated Ms. Suarez for violations of its attendance policy.

In its defense, the School contended that accommodating Ms. Suarez's religious practice would impose an undue hardship on its operations. The School, as a residential nursing facility for vulnerable adults, requires sufficient staffing to provide adequate medical care for its guests. To ensure the School has necessary coverage, it hires nurses to work a specific, preset schedule that cannot be easily changed. For the same reason, the School requires that nurses pre-select their vacation days at the start of the year to curb the risk of unforeseeable staffing shortages. Importantly, the School's staffing policy originates from the nurses' collective bargaining agreement. An understaffed facility leads to higher rates of nursing burnout and makes for a generally unpleasant work environment. Thus, any unanticipated absence deeply burdens the School, its employees, and its patients. The trial court agreed and entered summary judgment for the School. Ms. Suarez appealed.

The Court of Appeals

In 2022, the Court of Appeals reversed the trial court's entry of summary judgment and held Ms. Suarez raised a question of fact as to (1) whether the School failed to reasonably accommodate her religious practices by denying her requests for time off and (2) whether the School wrongfully terminated her in violation of public policy for missing work, without notice or permission, to attend religious festivals.

The Court of Appeals, noting no Washington precedent opined on the criteria for the "undue hardship" defense for the WLAD, borrowed the "undue hardship" test from WAC 82-56-020, a relatively obscure regulation governing holidays for provisional state employees. In so doing, the appellate court established a novel "undue hardship" standard that narrowly evaluated whether an employee's request for religious accommodation imposes more than a *de minimis* impact on the employer's bottom line. If not, an employer must offer the accommodation.

Notably, to the Court of Appeals, it was immaterial that Ms. Suarez's accommodation request would (among other things) disrupt the School's operations, sandbag its staff, expose the School to liability for substandard medical care, and harm patients; those were not "financial" hardships.

Washington's Supreme Court Reverses

The School appealed, arguing that the "significant expense" test proffered by the Court of Appeals too narrowly focused on an employer's finances.

On July 25, 2024, the Supreme Court agreed and reversed the Court of Appeals. It held a correct analysis of the "undue hardship" defense should be a rigorous, case-by-case query, with a view of each employer's specific business needs. This means other, non-financial forms of employer hardship may be relevant – if not dispositive – in religious accommodation cases.

The Court considered authority interpreting WLAD's federal corollary, Title VII, and found the federal judiciary has long held an employer's "undue hardship" defense may rest on non-financial burdens, *e.g.*, when an accommodation creates an unreasonable safety risk, violates a government mandate, or interferes with the management and performance of a business's employees.

Significantly, the Court held that Suarez's requested accommodation would have resulted in her receiving *preferential* treatment at the expense of her co-workers who would have to cover for her, essentially discriminating against them to accommodate her religious beliefs.

Aftermath

In August 2024, in a case entitled *Trueblood v. Valley Cities Counseling & Consultation*, the Western District of Washington held an employer did not fail to accommodate an employee's religious practices under the WLAD when it refused to permit an employee to use incorrect pronouns with colleagues. That is, the employee asserted she had a religious objection to using a transgender coworker's preferred pronouns. In rebuttal, the employer's "undue hardship" defense relied primarily on its unwillingness to violate anti-discrimination laws. Notably, the employer's defense did not center on the fiscal impact of accommodating the employee, which was – at first blush – *de minimis*.

Relying on *Suarez*, the Court granted the employer summary judgment and held that the risk of an anti-discrimination lawsuit alone was a sufficient undue hardship on an employer. Meaning, where an employee's religious accommodation request exposes an employer to a risk of legal liability, the request is likely unreasonable.

Trueblood is thus a continuation of a recent line of case law substantially broadening the arguments available to an employer asserting an "undue hardship" defense. This may well afford greater protection for employers against religious accommodation claims.

Employers with questions about their obligations to provide reasonable accommodation are encouraged to contact Sebris Busto James.

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