1

Historical Context

- Religion has a unique protected status under the law.

- *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof*; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
(U.S. Const. amend. I)

2

Religion – A Clash of Rights at Work

- Title VII requires employers not to engage in unlawful discrimination and to provide a work environment free of unlawful harassment.
- Title VII also obligates employers to respect employees' religious beliefs and practices.
- The Constitution and other statutes protect the right of some employers to religious expression.
- What happens when these rights and obligations collide?

Religious Discrimination

- Title VII prohibits taking adverse employment actions because of an employee's religious beliefs or practices (includes disparate treatment & hostile work environment)
- Ex: *Peterson v. Wilmur Commc'ns, Inc.,* 205 F. Supp. 2d 1014 (E.D. Wis. 2002)
  - Plaintiff demoted after appearing in local newspaper discussing his belief in "Creativity"—a purported religion based on principles of white supremacy
  - Plaintiff was a supervisor, who managed non-white employees—employer felt that Plaintiff was not qualified to supervise based on racist views
  - Court grants *Plaintiff's* motion for summary judgment.

Religious Accommodation of Employees

- Title VII also requires accommodation of religious belief and practice
  - Unless accommodation would cause an undue hardship
- Old standard
  - Undue hardship = anything more than de minimis cost to accommodate religious practice. *Trans World Airlines v. Hardison*, 432 U.S. 63 (1977)

Groff v. DeJoy

- To show an "undue burden," 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."
- Courts must take 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."
- What does this mean?

Title search: *Groff v. DeJoy:* A Year Later and Other Emerging Issues in Religious Accommodation

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