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I. Introduction

In 1964 and immediately thereafter, U. S. businesses became preoccupied with the effects of the Civil Rights Act on business management and the constitutionally related concerns of employees' civil liberties. Many businesses responded to the Civil Rights legislation with their own diversity-related initiatives in such areas as recruitment, selection, and management of workers. In the 1960s, foresighted businesses developed race-friendly policies that encouraged integration and racial equality in the workforce. In the 1970s, businesses addressed issues of the feminist movement by providing women in the workforce with equal pay and equal opportunity to compete for jobs, thereby removing job position barriers from positions that were historically thought suitable only for men. The more socially sensitive companies sought to develop gender-friendly policies to attract and retain women at all organizational levels. In the 1980s, businesses addressed single-parent families, families where both parents worked outside the home, and blended families composed of remarried couples and children from different marriages living under one roof. In response to such economic and familial changes, forward-thinking companies created many family-friendly policies, including flextime, telecommuting, job sharing, day care centers, and paternity leave. In the 1990s, firms developed nondiscrimination policies addressing sexual orientation, gender identity, and domestic partner health insurance.

In the new millennium, firms are being confronted by employee requests that involve religion, spiritual influence, and faith teachings. Such endeavors have been commonly referred to as religion at work and appear to be the most current diversity initiative. Foresighted businesses are developing faith-friendly policies that honor, respect, and dignify the spiritual dimension of employees' lives. The Tanenbaum Center for Interreligious Understanding observed that religious diversity in the workplace has become one of the most important social issues today.

In response to these societal movements, many business organizations are being challenged to understand and effectively deal with various employee groups and their respective demands and needs in the workplace. Prominent companies are choosing to embrace holistic policies and constructively engage the often personal and emotional topics of race, gender, extended family,
sexual orientation, and, increasingly, religion. The past five decades indicate that most of the high-achieving firms that compete for top talent in the global marketplace have developed a mixture of race-friendly, gender-friendly, family-friendly, gay-friendly, and faith-friendly policies.

II. RELIGION IN THE WORKPLACE

While the terms religion and spirituality are often used interchangeably in society, the Equal Employment Opportunities Commission (hereinafter referred to as EEOC) has historically promulgated guidelines that generally parallel and supplement the decisions of the Supreme Court and appear to clearly support differentiation of spirituality (a term which many people find attractive for its connotation of private and personal belief in a higher power) from formal religion (a term which has lost favor due to its more rigid, public, and institutional associations). To avoid any confusion between these concepts, the term faith is used in this article.

Faith is an important aspect of most societies because each country’s allowed religious practices influence ethics, human dealings, social customs, the ways in which members of a society relate to each other and to outsiders, and general workplace behavior. In prior generations of U.S. workers, bringing faith into the workplace was not a common practice; increasingly, however, the boundaries between faith and work are eroding as employees desire to be employed where faith and workplace practices are aligned. Religion has become more visible at work as persons of faith live out their beliefs and practices in various ways—wearing certain clothing, managing hair in certain ways, recruiting others to their faith, following certain diets, praying, fasting, avoiding certain language or behavior, and observing certain religious holidays. Not surprisingly, such differences provide ample ground for conflict, disagreement, and even harassment among employers and employees. Business leaders and managers need to be aware of these challenges and recognize that faith in the workplace, if not addressed, creates the potential for divisiveness and discrimination.

III. IMPLICATIONS OF FAITH AT WORK (FAW) FOR FIRMS

As faith becomes more visible in business, firms must recognize and address four distinct issues: 1) the sincerely held religious convictions of the employee, 2) the reasonable accommodation of the religious needs of employees balanced against any undue hardships placed on the employer, 3) the training of supervisors regarding the issues surrounding faith in the workplace, and 4) the maintenance of a harassment-free work environment.

A. SINCERELY HELD RELIGIOUS CONVICTIONS

Often, when claims of religious discrimination or harassment surface, or when a worker requests accommodations for their religious convictions, one of the first actions a business must take is to investigate the worker’s claim that he or she has a legitimate religious belief. Title VII of the Civil Rights Act defines religion to include “all aspects of religious observance and practice, as well as belief.” The EEOC further states that “the fact that no religious group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not

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5 Id.
8 Miller, supra note 2.
accept such belief will not determine whether the belief is a religious belief of the employee or prospective employee.\textsuperscript{11} Thus, it is not necessary for a relationship to exist between an individual's conviction and a specific sectarian religion.

The Supreme Court, in a number of cases, has tried to interpret what is a religious belief. In the 1944 case \textit{United States v. Ballard}, the Supreme Court ruled that it is not a function of the court to determine the legitimacy of faith or belief. The Court stated that “faith means belief in something concerning which doubt is still theoretically possible.”\textsuperscript{12} The defendants, Edna and Donald Ballard, were charged with obtaining donations “by means of false and fraudulent representations, pretenses, and promises”\textsuperscript{13} and were convicted of mail fraud and conspiracy. The defendants held that their solicitations were made to further their faith and beliefs. The lower court instructed the jury to determine whether the defendants' conduct was in fact a good faith extension of their religious beliefs. The Supreme Court ruled that the issue of the case was not the defendants’ religious beliefs and that those religious issues should not have been submitted to the jury. The Court also stated that “religious experiences which are as real as life to some may be incomprehensible to others.”\textsuperscript{14} The Court further encouraged lower courts not to rule on the comprehensibility of faith and religion.

In \textit{United States v. Seeger} (hereinafter Seeger) in 1965, the Supreme Court, defined religion as a “given belief that is sincere and meaningful [and] occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption.”\textsuperscript{15} The Seeger decision was followed in 1970 by \textit{Welsh v. United States} (hereinafter referred to as Welsh), where the Supreme Court held that the central consideration in determining the religiosity of an individual's beliefs was whether the beliefs played the role of a religion in the person's life. The Welsh court stated that “the task is to decide whether the beliefs professed by a registrant are sincerely held and whether they are, in his own scheme of things, religious.”\textsuperscript{16}

In \textit{Thomas v. Review Board of Indiana Employment Security Division}, the court indicated that protected religious beliefs need not be objectively reasonable (i.e., acceptable, logical, or consistent to others) to be entitled to protection.\textsuperscript{17} Thomas was a Jehovah's Witness who was denied unemployment benefits because he had resigned his employment based upon religious beliefs. Thomas was employed in a foundry which fabricated industrial steel. The portion of the foundry where he worked was closed, and he was reassigned to a department that manufactured turrets for military tanks, which was against his religion. When he asked to be laid off until a non-military product was available to work on, his request was denied, and he resigned. Thomas applied for unemployment benefits under the Indiana Unemployment Security Act, but was denied benefits because it was determined at the hearing that his basis for quitting was not based upon good cause arising in connection to his work as the Indiana statute required. The Supreme Court ruled that the State's denial of Thomas's unemployment compensation benefits violated his First Amendment right to free exercise of religion,\textsuperscript{18} applying the principles set forth in \textit{Sherbert v. Verner}.\textsuperscript{19}

As a consequence of the breadth of the legal definition of religion, it is exceedingly difficult for an employer to prove that a worker's convictions are not religious. Only a few courts have addressed the issue of sincerity, most finding that the plaintiff had made the necessary showing of sincerity for their belief. Courts have also continuously rejected employer arguments that employees must provide a comprehensive or detailed explanation of how and why their religious beliefs need accommodation.\textsuperscript{20} Employees, however, must inform employers of the religious

\textsuperscript{11} 432 U.S. 63 (1977).
\textsuperscript{12} 322 U.S. 78, 98 (1944).
\textsuperscript{13} Id. at 79.
\textsuperscript{14} Id. at 86.
\textsuperscript{15} 380 U.S. 163, 173 (1965).
\textsuperscript{17} 450 U.S. 707, 714 (1981).
\textsuperscript{18} Id. at 713.
\textsuperscript{19} 374 U.S.398.
nature of their beliefs or practices when employment and faith come into conflict. Based on such considerations, some researchers have advocated that firms should "accept any sincerely held belief based upon principles of what is right or wrong—no matter how unusual—as a religious belief."21 Research suggests ignoring the issue of what religion is completely and focusing instead on the impact that religion has on the firm itself.22 It should also be noted that the freedom not to believe in a deity is a protected form of religious belief under Title VII.

B. BALANCING INTERESTS OF FIRM AND WORKER IN ACCOMMODATIONS

Because of the increased willingness of employees to assert their religious convictions at work, a business should expect that its workforce will increasingly ask for accommodations for their religious beliefs and practices.23 Cash and Gray identified two kinds of requests requiring employer accommodations:24 1) observance requests (outside work) which involve employees asking for leave to take part in religious festivals; observances or pilgrimages; or births, weddings, or deaths of relatives with particular faith or cultural needs; and 2) manifestation requests (at work) which involve employees asking for:

- an exception to or exclusion from dress, clothing, and grooming codes (e.g., wearing pants; allowing facial hair; permitting head covering or other religiously mandated garb, uniforms, facial or religious jewelry, piercings, or similar adornments)
- an expansion of food choices consistent with religious beliefs at firm-sponsored cafeterias and restaurants
- an exemption from specific tasks which are inconsistent with faith practices and beliefs (examples: a Baptist law enforcement official refusing to work at casinos; a Catholic police officer unwilling to protect and guard abortion clinics)
- Time off for prayer during normal working hours and/or additional time during work breaks and lunch
- special use of facility space (e.g., conference rooms) for faith-related activities
- permission for evangelization activities including handouts of religious literature and posting of flyers announcing faith-related activities
- an exemption from union membership (generally, an employer or union cannot require membership from any employee or applicant whose religious creed prohibits such membership)
- permission to use religious-based customer greetings and salutations (e.g., "Praise the Lord" and "God bless you")
- exclusion from workplace diversity initiatives advocating mutual respect for employees based on their sexual orientation, gender identification, and/or lifestyle choices (e.g., unwed parenthood)
- permission not to participate in objectionable non-religious motivation or training programs incorporating controversial techniques

For example, mandatory new age training programs designed to improve employee motivation, cooperation, or productivity through meditation, yoga, biofeedback, or other practices may conflict with the non-discriminatory provisions of Title VII. Employers must accommodate

22 Supra, note 5.
24 Cash & Gray, supra note 5.
any employee who gives notice that these programs are inconsistent with the employee’s religious beliefs, whether or not the employer believes there is a religious basis for the objection.25 Businesses should also anticipate that faith at work (FAW) issues may give rise to employee requests for reasonable accommodations for prayer and religious study groups, workplace chaplains, and affinity or networking groups (i.e., groups organized around common interests, hobbies, or employee characteristics, such as race, ethnicity, gender, country of origin, or sexual orientation).26

In considering such worker organizations, businesses must make a determination of any undue hardships they may incur or cause.27 The U.S. Supreme Court set the standard for what constitutes an undue hardship to the employer in Trans World Airlines v. Hardison (1977).28 The case was appealed to the U.S. Supreme Court regarding an employer’s requirement to provide reasonable accommodations for its employees’ religious beliefs. The appellee, Larry G. Hardison was an employee of Trans World Airlines (TWA) and worked in an airline maintenance and overhaul department in Kansas City, Missouri that operated twenty-four hours a day, seven days a week, 365 days a year. The company allowed senior employees the first choice in selecting job and shift assignments upon availability. The appellee’s religious beliefs prohibited him from working Saturdays. Because he was a senior-level employee, this worked well until he sought a transfer to another position which revoked his seniority. Hardison asked TWA for Saturdays off, but TWA was unwilling to violate their union seniority system. Hardison’s refusal to work placed a hardship on the airline’s operation, and he was consequently discharged. Hardison brought an action for injunctive relief against TWA and the union, claiming that his discharge was discrimination against his religious beliefs and thus in violation of §703(a) (1) of Title VII of the Civil Rights Act of 1964.

Hardison also charged the union with religious discrimination, citing the 1967 EEOC guidelines requiring an employer, short of undue hardship, to make reasonable accommodations to the religious needs of its employees. The District Court ruled in favor of TWA, but the Court of Appeals for the Eighth Circuit reversed the judgment on the grounds that TWA had not satisfied its duty to accommodate employees’ religious beliefs. The Supreme Court reversed this decision in favor of TWA, stating that allowing Hardison’s request would constitute an undue hardship within the meaning of the EEOC regulation.29 Undue hardship is established if the employer is required to spend even a de minimus amount of money to accommodate the request. The determination of whether a particular proposed accommodation imposes an undue hardship “must be made by considering the particular factual context of each case.”30 In assessing an undue hardship, business organizations need to evaluate the impact of the employee’s request in light of a number of factors, including: 1) firm productivity standards and process schedules; 2) safety considerations; 3) effect on other employees, including negative employee morale and unequal treatment of other employees; 4) collective bargaining agreements; and 5) customer relations issues.31 With respect to this last issue, it should be noted that a company’s claim of undue hardship cannot be based on the preferences of its customers even though customer preferences—or prejudices—could affect a company’s profits.32 The courts have never found that customer preference was a legitimate business necessity or a valid reason for discrimination. For example, suppose a clerk in a retail store practices a religion that requires a certain style of dress, or covering her face with a scarf. Even if customers do not like her appearance and choose to shop elsewhere, the employer cannot

27 Baz v. Walters, 782 F. 2d 701, 706 (7th Cir. 1986).
29 Id. at 75.
respond to customer preference by terminating her. Employment decisions that are based on the
discriminating preferences of customers are as unlawful as decisions based on an employer's own
discriminating preferences.

It is noteworthy that the de minimis cost method of defining an undue hardship may be
eroding statutory. For example, in 2002, a New York statute was amended to redefine undue
hardship from a “palpable increase in cost” to a “significant expense or difficulty” in order to
establish a justification for denying an accommodation. The de minimis cost method increased the
burden of proof upon employers when denying employees’ requests for accommodation based
upon faith beliefs and convictions. Similarly, the bipartisan Workplace Religious Freedom Act of
2005 (hereinafter referred to as WRFA) was introduced on March 17, 2005, in the U.S. Senate
and amends the Civil Rights Act by requiring employers to make an affirmative and bona fide
effort to accommodate employees’ religious practices unless it would create an undue hardship.
The Act proposes to define undue hardship to include “significant difficulty or expense.”
Although the WRFA has not yet been passed by Congress, if and when it does, it will mean that
employers will have to go to greater lengths to accommodate employees’ religious beliefs because
of the higher standard for undue hardship (de minimis cost vs. significant difficulty or expense).
It also means that employees will have much more power to exercise their religious beliefs in
the workplace, thus theoretically making the employers’ responsibility to keep the workplace free from
religious discrimination and harassment more difficult.

Moreover, the EEOC has taken the position that “[w]hen there is more than one means of
accommodation which would not cause undue hardship, the employer or labor organization must
offer the alternative which least disadvantages the individual with respect to his or her employment
opportunities.” However, the employer does not have to grant the specific accommodation
requested by the employee; it need only provide an effective accommodation. For example, in
Ansonia Board of Education v. Philbrook (1986), the court held that “[b]y its very terms the statute
directs that any reasonable accommodation by the employer is sufficient to meet its
accommodation obligation.” Ronald Philbrook had been employed by the Ansonia Board of
Education teaching high school business and typing classes since 1962. In 1968, Philbrook became
a member of the Worldwide Church of God, which required members to abstain from work during
designated holy days, causing him to be absent for six days of each school year. Teachers
employed by the Ansonia Board of Education were allotted three days of annual leave for
observance of religious holidays but were not allowed to use accumulated sick leave or the other
three days allotted for necessary personal business for the purpose of religious holidays. After
repeated attempts and failure to have the Board approve a policy that would allow him to use the
three personal business days or to pay for a substitute, Philbrook filed suit in Federal District
Court. Philbrook alleged the Board violated the prohibition against religious discrimination in
§701(j) of the Civil Rights Act of 1964, under which the Board had obligations to reasonably
accommodate the religious beliefs of an employee as long as it did not present undue hardship
upon the employer. The Supreme Court ruled in favor of the Ansonia Board of Education, stating
they found that the Board had reasonably accommodated Philbrook's religious needs and therefore
did not have to show any undue hardships resulting from the alternative accommodations.

33 N.Y. EXEC. LAW § 296 (10) (d) (1).
author retains copy).
35 Civil Rights Acts Title VII, 42 U.S. C 2000 e. (I)–e (17).
36 TheOrator.com, supra note 33, §677.
38 29 C.F.R. 1605.2(c)(2)(ii).
The Court stated:

"[B]y its very terms the statute directs that any reasonable accommodation by the employer is sufficient to meet its accommodation obligation. Thus, where the employer has already reasonably accommodated the employee's religious need, the statutory inquiry is at an end. The employer need not further show that each of the employee's alternative accommodations would result in undue hardship."40

Furthermore, in Rodriguez v. City of Chicago, the Supreme Court indicated that "Title VII . . . requires only reasonable accommodation, not satisfaction of an employee's every desire."41

In addressing employee accommodation requests, it is important that businesses demonstrate a good faith effort and that their actions be reasonable and within the spirit of equal employment opportunity law. Courts will generally find a violation if the employer makes little or no effort to accommodate the employee or refuses to discuss the issue. For example, Brener v. Diagnostic Center Hospital (1982; hereinafter Brener) was an appeal from the United States 5th Circuit Court of Appeals regarding religious accommodations. Marvin Brener was one of five staff pharmacists of the Diagnostic Center Hospital and an Orthodox Jew. The hospital pharmacy operated seven days a week, and all pharmacists worked rotating shifts. Soon after starting to work, Brener advised the pharmacy director, Charles Luther, that his religion prohibited him from working on the Sabbath (sunset Friday to sunset Saturday). Luther accommodated Brener and ordered corresponding shift changes for all pharmacists. Brener later informed Luther that he was prohibited from working on the Jewish holy days of Rosh Hashanah and Yom Kippur, and again Luther accommodated by rearranging the schedules. Soon thereafter, Luther began receiving complaints from the other pharmacists of the special treatment afforded to Brener. When Brener requested an additional schedule change for Sukkot, Luther informed Brener that he would no longer require the other pharmacists to trade shifts but would honor any exchange that Brener could arrange with his coworkers. Brener was unable to arrange the necessary shift change and failed to report to work the days of Sukkot. Upon returning to work, Brener was advised that if he was not going to report to work as scheduled, he would have to first arrange a shift change. However, Brener did not arrange for an exchange in shifts and did not report to work as scheduled on a subsequent holiday. Brener resigned.

Brener then filed suit, alleging that he was discharged because of his religious beliefs. The Trial Court ruled in favor of the Diagnostic Center Hospital in finding that, in accordance with Title VII of the Civil Rights Act of 1964 and in particular §701 (j), the Diagnostic Center Hospital satisfied its burden of showing reasonable accommodation to an employee's religious needs and that further measures would result in undue hardship to the hospital and its staff. The Supreme Court stated, in affirming the decision, that "although the statutory burden to accommodate rests with the employer, the employee has a correlative duty to make a good faith attempt to satisfy his needs through means offered by the employer. A reasonable accommodation need not be on the employee's terms only."42 The court also held that "bilateral cooperation is appropriate in the search for an acceptable reconciliation of the needs of the employee's religion and the exigencies of the employer's business."43 In a similar case, the Court ruled in Soldinger v. Northwest Airlines, Inc. that "[t]he obligation to search for an acceptable solution is bilateral."44 Employees also have the obligation to make a good faith effort to explore alternatives."45 Additionally, employers must be able to show evidence of actual undue hardship and not mere speculation. The employer is on
stronger ground when it has attempted various methods of accommodation and can point to multiple hardships that actually resulted rather than hypothetical burdens.

Therefore, it is prudent for employers to consider the employee's proposed accommodation and to offer alternative accommodations that would resolve the conflict if the employee's proposal is not acceptable, instead of flatly rejecting it. While an employer's first reaction may be to deny an accommodation for fear that the accommodation will set a precedent or because of the possible cumulative effect of other employees wanting the same accommodation, this is not a valid defense without evidence that an accommodation will cause undue hardship to the employer. Such was the case involving Alamo Car Rental. On June 3, 2007, a Phoenix, Arizona, jury awarded more than $287,000 in a religious bias suit. The EEOC charged that Alamo committed discrimination based on religion when it fired a Somali customer sales representative, Bilan Nur, for refusing to remove her head scarf during the Muslim holy month of Ramadan. According to the EEOC's lawsuit, Alamo refused to permit Nur to continue to cover her head as she had done for her previous two years of employment at Alamo, even if she wore an approved Alamo-logo scarf. Alamo claimed that it told Nur that the company dress code prohibited wearing a scarf. Notwithstanding Alamo's representation, the EEOC found that the company had no such policy. When Nur refused to remove the scarf, Alamo terminated her employment, and declared her ineligible for rehire. Alamo was ordered to pay $21,640 in back pay, $16,000 in compensatory damages, and $250,000 in punitive damages to Nur.

A final consideration in addressing employee accommodations is to think creatively about ways that the needs of both the worker and the company can be met. Not only is there a good chance that a compromise can be found, but creative problem solving shows that the employer made a good faith effort to provide an accommodation even if a compromise is not reached. The Tanenbaum Center for Interreligious Understanding provides an example of such creativity. Shortly after the events of September 11, 2001, a situation arose at a large hi-tech firm when the security department insisted a new Muslim employee remove her veil (hijab) for her photo identification key card, which her religious belief prohibited her from doing before non-familial men. Management deliberated and found a solution. The new employee was given two identification cards—one veiled and one unveiled. Her unveiled photo was taken and processed by a woman and would not be shown or used for entry purposes. The veiled photo card was the one programmed to unlock doors and shown for identification purposes in the facility. Another example of creatively addressing a previously defined issue involves the issue of payment of union dues in violation of a worker's religious beliefs. Many employees object to causes that some unions support, such as Planned Parenthood or other pro-choice organizations. Workers objecting to the payment of union dues on religious grounds may be accommodated by allowing them to contribute an amount equal to their dues to a charity of their choice. Another possible solution is to discount the union dues in proportion to the amount of money spent on the objectionable union activity. The difficulty with union dues reduction is that any such agreement may ultimately have to be resolved with the union itself.

C. TRAINING OF SUPERVISORS REGARDING ISSUES OF FAITH IN THE WORKPLACE

Supervisors must be cautious in what they say and do regarding sensitive issues of faith in the workplace. When it is clear that a supervisor's religious expression is merely his or her personal view and that employees are free to reject the supervisor's point of view or invitation without any further consequences, the employer must be prepared to accommodate any objectionable behavior. The Tanenbaum Center for Interreligious Understanding provides an example of such accommodation. Shortly after the events of September 11, 2001, a situation arose at a large hi-tech firm when the security department insisted a new Muslim employee remove her veil (hijab) for her photo identification key card, which her religious belief prohibited her from doing before non-familial men. Management deliberated and found a solution. The new employee was given two identification cards—one veiled and one unveiled. Her unveiled photo was taken and processed by a woman and would not be shown or used for entry purposes. The veiled photo card was the one programmed to unlock doors and shown for identification purposes in the facility. Another example of creatively addressing a previously defined issue involves the issue of payment of union dues in violation of a worker's religious beliefs. Many employees object to causes that some unions support, such as Planned Parenthood or other pro-choice organizations. Workers objecting to the payment of union dues on religious grounds may be accommodated by allowing them to contribute an amount equal to their dues to a charity of their choice. Another possible solution is to discount the union dues in proportion to the amount of money spent on the objectionable union activity. The difficulty with union dues reduction is that any such agreement may ultimately have to be resolved with the union itself.

47 Id.
48 Tanenbaum Center for Interreligious Understanding, supra note 4.
harm to their careers or personal lives, such expression is legally protected. Yet, because supervisors have the power to hire, terminate, or promote, employees may reasonably perceive their supervisor's religious expression as coercive, even if it was not intended to be. Therefore, businesses should train supervisors to be particularly careful to ensure that their statements and actions are such that employees do not perceive coercion of religious or non-religious behavior and to take appropriate steps to dispel misperceptions when necessary.

D. THE MAINTENANCE OF A HARASSMENT-FREE WORK ENVIRONMENT

A hostile or abusive work environment in regard to religion is virtually indefensible for an employer. Quick and expeditious action to cure conduct prohibited by the Civil Rights Act or EEOC guidelines may provide protection from claims of a hostile work environment in FAW cases. This concept is logically supported in Davis v. Monsanto Chemical Company, an appeal to the United States 6th Circuit Court of Appeals regarding racial harassment of two black males. Jesse Davis and Richard Harris both had disciplinary problems while employed by the Monsanto Chemical Company, mostly stemming from unauthorized absenteeism. Upon termination, the two men filed separate racial discrimination charges with the EEOC and suit against Monsanto. Their complaints were consolidated due to the fact that both claimed they were subjected to disparate treatment and to a racially hostile work environment, including racial slurs, derogatory racial graffiti, and harassment. Upon reporting of these findings, Monsanto management promptly acted and took appropriate measures to remedy the situation by informing employees that such conduct would not be condoned. The Court concluded that in accordance with Title VII the evidence showed that Monsanto took immediate action and did not tolerate the alleged harassment and thereby sustained no liabilities. Employers must maintain a work environment that is not hostile or abusive toward religion as required by the Civil Rights Act. Title VII requires that employers take prompt action to prevent employees from expressing their opinion in a way that abuses or offends their coworkers.

Speech and/or conduct can constitute harassment if it is severe and pervasive enough to alter the conditions of employment and create a hostile or abusive work environment based on an employee’s religion or other protected category. A hostile work environment can be created by slurs, jokes, derogatory comments, and other forms of ridicule; persistent unwelcome proselytizing; and any mandatory religious activity in the workplace. However, merely handing out a religious book does not create a hostile working environment, nor would an occasional and isolated utterance of an epithet that engenders offensive feelings in an employee typically be considered harassment. A hostile environment, for Title VII purposes, is not created by the mere expression of speech with which one disagrees.

Management should be particularly vigilant when the phrase I am offended is spoken. America’s seemingly hypersensitive culture is hurting freedom of speech considerations. People are reluctant to say anything today without the fear of someone saying I am offended. This statement has become particularly effective to inhibit faith-oriented speech. The I am offended statement seems to usually target religious speech that speaks to universal standards and attempts to suppress its expression. A person does not surrender their rights to free speech simply because

50 858 F.2d 6th Cir. 345, 350 (1988).
51 id.
53 Venters v. City of Delphi, 123 F. 3d 956, 972-74 (7th Cir. 1997); Weiss v. United States, 595 F. Supp. 1050, 1056-57 (E.D. Va. 1984); Young v. Southwestern Savings and Loan Ass’n., 509 F.2d 140, 142 (5th Cir. 1975).
someone does not like the content of what they are saying. The main exception occurs when an individual employee speaks to another employee about faith-related ideas and the coworker asks that the conversation be stopped and the topic not be brought up again. At that point neither employee has a grievance. However, if the first employee persists and the second employee insists on not discussing it, then this becomes the beginning of a possible religious harassment. Thus, firms should proceed with guarded concern when I am offended is voiced.

For religious harassment to be illegal under Title VII, it must be sufficiently severe and pervasive to alter the conditions of employment and create an abusive working environment. Whether conduct can be said to be religious harassment under Title VII depends on the totality of the circumstances, such as the nature of the verbal or physical conduct at issue and the context in which the alleged incidents occurred. Indeed, "the real social impact of workplace behavior often depends on a constellation of surrounding circumstances, expectations, and relationships which are not fully captured by a simple recitation of the words used or the physical acts performed."

IV. CONCLUSION

For most of the 20th century, it was considered inappropriate in U.S. society to bring religion into the workplace. This sentiment is encapsulated in the term Sunday-Monday gap where workers' Sunday worship bore little relevance to issues encountered during Monday work hours. The 21st century, on the other hand, "is dawning as a century of religion." Faith has come into the workplace, and with it, the "last taboo in corporate America" is disappearing. Increasingly, employers must balance the firm's and employees' rights to express their religious beliefs and values to harassment or discrimination on the basis of faith. Such tensions have surrounded the latest type of diversity that firms must address—faith at work.

In an ideal work environment, the religious beliefs of a given employee, or of the employer, do not create conflicts. Either is free to believe as he or she chooses; as long as the work is performed satisfactorily, neither will encounter difficulty on the basis of religion. Yet a number of issues can arise to create friction. The many characteristics of different religions provide ample ground for disagreement, conflict, or even harassment among employers and employees. Faith has become more visible at work and is the latest type of diversity in the workplace that has presented challenges to organizations. Business leaders need to be attentive to the potential for divisiveness and discrimination if religious and spiritual practices in the workplace are not implemented with due consideration.

Given the caveats presented above, some businesspeople feel that integrating faith and work is problematic and seek to institute policies and procedures aimed at minimizing and, in some cases, completely avoiding religious expression. They promote a level of religious expression commensurate with the least amount of faith-related exhibition allowed by law. Unfortunately, the exact contours of the legal and societal landscape regarding FAW are uncertain. Therefore, businesses that adopt this strategy may act at considerable risk when attempting to gauge legal rights and responsibilities affecting faith in the workplace.

Such a minimalist approach may fail to adequately recognize opportunities for improvement in several areas. Recent empirical studies have shown that certain dimensions of religion and spirituality in the workplace, such as meditation and sense of mission, relate positively to job

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58 MILLER, supra note 2, at 9.
59 SAMUEL P. HUNTINGTON, WHO ARE WE? THE CHALLENGES TO AMERICA'S NATIONAL IDENTITY (Simon & Schuster 2004).
60 Marc Gunther, God and Business: The Surprising Quest for Spiritual Renewal in the American Workplace, FORTUNE, July 9, 2001, at 58.
satisfaction, job involvement, and productivity. These positive outcomes may benefit companies as well as their employees. Also, companies with strong spiritual corporate cultures economically outperformed others in investment return and shareholder value.

Another difficulty with prohibiting or limiting FAW is the problems it creates for human resource professionals. These managers often must bridge conflicts between the implementation of top management's strategic objectives and the interests of individual employees. A strategy that minimizes religious expression in the workplace will alienate employees who want to bring their faith to work. Furthermore, the ability to attract and retain high-performing employees may also be diminished when management adopts an overly restrictive view and thereby engages in self-handicapping behavior since “it is often employees themselves—its human resources—who possess the competitive edge.” Leading organizations realize that their most valuable resources are competent employees and the tacit knowledge they possess. The old aphorism “people are our most important asset” is true. As a means of attracting and retaining competent workers and the knowledge they possess, firms are becoming more worker-friendly and responsive to their employees' increasing interest in FAW. It seems only logical then that the next best-practice frontier for firms is to develop faith-friendly policies and practices to honor, respect, and dignify the spiritual dimension of employees' lives.


63 Jeffrey A. Mello, The Dual Loyalty Dilemma for HR Managers under Title VII Compliance, 64 SAM ADV. MGMT. J. 10, 10-13 (Winter 2000).


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William T. Mawer
Editor-in-Chief,
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