


# Religious Accommodations in the Workplace



## Human Resources

Imagine that you are general counsel for a popular international food company that delivers fresh meal kits directly to consumers. The company is known for its wide variety of easy-to-make meals. This morning, one of your truck drivers stated that he is unwilling to deliver meals that contain pork products due to his religious

beliefs. Must you accommodate his religious beliefs?

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on religion, among other protected classes. 42 U.S.C. §2000e-2(a). Title VII also requires employers to accommodate an applicant's or employee's "sincerely held" religious belief or practice, unless doing so would pose an "undue hardship." *Id.* To establish a *prima facie* case of religious discrimination based on a failure to accommodate, a plaintiff must show that (1) a bona fide religious prac-

tice conflicts with an employment requirement; and (2) the religious practice was a motivating factor in the employer's decision to take adverse employment action. *E.E.O.C. v. Abercrombie & Fitch Stores, Inc.*, 135 S. Ct. 2028, 2032 (2015). Once a plaintiff establishes a *prima facie* case, the burden shifts to the employer to show that it made a reasonable accommodation of the religious practice or to show that any accommodation would result in undue hardship. *E.E.O.C. v. Union Independiente de la Autoridad de Acueductos y Alcantarillados*



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*de Puerto Rico*, 279 F.3d 49, 55 (1st Cir. 2002). An accommodation is considered to be an “undue hardship” if it would impose more than a *de minimis* cost on the employer. *Cloutier v. Costco Wholesale Corp.*, 390 F.3d 126, 134 (1st Cir. 2004). The undue hardship analysis looks at both economic costs, such as lost business or having to hire additional employees to accommodate a Sabbath observer, and to non-economic costs, such as compromising the integrity of a seniority system. *Id.*

Employers are seeing an uptick of the types of questions posed by the above scenario and similar scenarios. According to the Equal Employment Opportunity Agency (EEOC), the federal agency empowered to enforce Title VII, the percentage of charges alleging religious discrimination nearly doubled between 1997 and 2015. While the number of race, sex, and age claims is much higher than religious discrimination claims, the increase in the rate of religious discrimination claims is a trend to which employers should be paying close attention.

This article will provide you with a practical guide for handling religious accommodation in the workplace, specifically addressing accommodating appearance, work schedules, and other religious practices.

## Appearance

On the one hand, there has been an overall workplace cultural shift towards liberalizing workplace appearance policies, as seen by recent changes to the policies of Starbucks, Target, Walgreens, Ikea, Trader Joe’s, and Dunkin Donuts, to name a few. However, on the other hand, there have also been a large number of cases involving employees challenging their employer’s refusal to accommodate their religious dress or grooming practices.

## Head Coverings

Most notably, in *E.E.O.C. v. Abercrombie & Fitch Stores, Inc.*, 135 S. Ct. 2028 (2015), the U.S. Supreme Court addressed whether Abercrombie violated Title VII by deciding not to hire a job applicant, who wore a *hijab* (head scarf) to her job interview. While the *hijab* did not comport with Abercrombie’s appearance policy, the applicant never requested a religious accommodation from

the policy to wear her *hijab*. *Id.* at 2031, 2033. The Court found Abercrombie violated Title VII because it *assumed* that the applicant would require a religious accommodation from Abercrombie’s appearance policy—even though it did not have actual knowledge of the applicant’s need for an accommodation. *Id.* at 2032–33. The Court held that an employer violates Title VII when an applicant’s need for accommodation serves as a motivating factor in the employer’s decision, which is adverse to the employee’s religious beliefs. *Id.*

In the aftermath of *Abercrombie*, employers should be very cautious about making assumptions about the types of accommodations an applicant or employee might need. Instead, employers should address accommodation issues head-on. Employers can easily do this by training managers to advise applicants and employees about their policies and asking if there is anything that would prevent the applicant or employee from complying with its policies. If an applicant or an employee raises a conflict with an employer’s policy, the employer should consider whether it can provide a reasonable accommodation without undue hardship. It is certainly acceptable for managers to consult with human resource personnel or counsel before ultimately deciding whether they can make an accommodation.

## Piercings

Head coverings are a very common religious practice with which most employers are familiar. But what are employers to do when faced with religions they have never even heard of or question entirely?

In *E.E.O.C. v. Papin Enterprises, Inc.*, No. 6:07-CV-1548ORL28GJK, 2009 WL 961108 (M.D. Fla. 2009), the court addressed this very issue. The EEOC filed suit on behalf of an employee against the defendants, alleging that they discriminated against the employee based on her religion. *Id.* at \*1. The defendants told the employee to remove her nose ring because it violated their no-facial-jewelry policy. *Id.* The employee refused, explained that her nose ring was religious in nature, and requested an exception from the policy. *Id.* The employer requested “religious text” or a “note from her minister” supporting the religious nature of the nose ring. *Id.*

The employee provided a note from herself and her mother regarding her religion, but did not provide any religious text or note from clergy. *Id.* The defendants advised the employee that if she did not show bona fide documentation regarding the nose ring’s significance to her religion, she would be prevented from wearing the nose ring at work and subject to termination if she failed to comply with their policy. *Id.* at \*2. The employee failed to comply with the defendants’ requests, continued to wear her nose ring, and was ultimately terminated. *Id.*

A jury found that the employee did not wear the nose ring because of a sincerely held religious belief, and therefore could not prevail on her religious accommodation and discrimination claims. *E.E.O.C. v. Papin Enterprises, Inc.*, No. 6:07CV1548ORL28GJK, 2009 WL 2256023 (M.D. Fla. July 28, 2009).

While courts are very reluctant to question an employee’s religious belief, this case demonstrates that it is possible for an employer to defeat such a claim by challenging whether an employee’s request is based on a sincerely held religious belief. When in doubt, employers should always request documentation that explains the religious nature of the religious practice necessitating an accommodation. Further, if the documentation an employer receives is insufficient, employers should request sufficient documentation to demonstrate that they have attempted to engage in an interactive process with the employee in an attempt to provide a reasonable accommodation.

It is also worthy of discussion that prior to trial, the court in *Papin* denied the defendants’ motion for summary judgment, finding that the defendants neither proved that they reasonably accommodated the employee’s request for accommodation, nor established that they would suffer an undue hardship if they provided the requested accommodation. *Id.* at \*6–7.

With regard to the reasonableness of an accommodation, the defendants argued that they offered two accommodations: allowing the employee (1) to cover her nose ring with a flesh-colored band-aid; or to (2) leave the store when the franchisor’s compliance inspector came to prevent the store from being found in non-compliance with the franchisor’s policy prohibiting

facial jewelry. *Id.* The *Papin* court noted that the Supreme Court has held that “a reasonable accommodation is one that ‘eliminates the conflict between the employment requirements and religious practices.’” *Id.* at \*4 (citations omitted). The court found that neither option provided a reasonable accommodation. *Id.* at \*5. It rejected the first option based on the employee’s deposition testimony that covering her nose ring would be like renouncing her religion. *Id.* The court rejected the second option as endorsing such a practice would amount to encouraging fraud. *Id.*

With regard to whether an undue hardship existed, the defendants also argued that they were entitled to summary judgement, as accommodating the employee’s religious practice would present an undue hardship as it violated its uniform food safety requirements. *Id.* at \*6–7. However, the court noted that the defendants could not sincerely argue that they had a strict food safety requirement barring nose rings, while at the same time arguing that one of the proposed reasonable accommodations was to allow the employee to wear the nose ring when the compliance auditor was not present. *Id.* The court also noted that the defendants would be willing to waive the policy if the employee presented evidence satisfactory of her religion, undercutting their undue hardship argument based on strict safety standards. *Id.* The court also noted that the defendants allowed employees to wear wristwatches and wedding bands, contrary to the food safety guidelines. *Id.*

In contrast, in another case dealing with piercings, *Cloutier v. Costco Wholesale Corp.*, 390 F.3d 126 (1st Cir. 2004), the court found an undue hardship existed. Cloutier sued her former employer, Costco, alleging that it violated Title VII and Massachusetts state law. *Id.* at 128. Specifically, she claimed that Costco failed to offer her a reasonable accommodation after she advised it of a conflict between its policy prohibiting facial jewelry and her religious practice as a member of the Church of Body Modification. *Id.* Costco argued that offering an accommodation created an undue hardship and presented evidence that such piercings would negatively influence its image, particularly as the plaintiff was a cashier, dealing directly with customers. *Id.* at 134–35.

The district court expressed serious doubts as to whether the plaintiff’s claim was based on a bona fide religious practice, noting that even if it was, the religion did not require a display of facial piercings at all times. *Id.* at 131. The district court ultimately avoided ruling on the issue of whether the plaintiff’s claim

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resulted from a sincerely held religious belief, and granted Costco’s motion for summary judgement, finding that Costco had accommodated Cloutier by allowing her to cover her piercing. *Id.*

The First Circuit affirmed the district court’s grant of summary judgement; however, its holding rested on different grounds. The court found it dispositive that the only accommodation which the plaintiff considered reasonable—a blanket exemption from the no-facial-jewelry policy—would pose an undue hardship on Costco. *Id.* at 132. The court held that Costco had no duty to accommodate the plaintiff because it could not do so without an undue hardship to its business. *Id.* at 133–137.

Notably, the court rejected the plaintiff’s argument that Costco would not suffer an undue hardship because she did not receive complaints about her piercings and they did not affect her job performance. *Id.* While the court noted that courts are somewhat skeptical of hypothetical hardships that have never been put into practice, the court found that Costco

met its burden of showing undue hardship because it examined the specific hardships presented by the specific accommodation. *Id.* The court agreed with Costco that the employee’s actions and appearance reflect on their employers, particularly employees that interact with customers, and that Cloutier’s facial jewelry influenced Costco’s public image and detracted from its professionalism. *Id.*

As we saw in *Papin*, employers need to be cautious about arguing that they would suffer an undue hardship, while also arguing in the alternative that they would be willing to accommodate the requested accommodation. *Papin* demonstrates the importance of considering a litigation strategy before litigation has even started; if an employer agrees to grant certain accommodations subject to some condition precedent, this will likely prevent the employer from succeeding on an undue hardship argument later in litigation.

The best practice to prepare a successful undue hardship defense is to conduct a case-specific analysis, tailored to the employee at issue. Employers should avoid a one-size-fits-all approach when arguing undue hardship. As discussed in *Cloutier*, the court found Costco’s undue hardship argument persuasive, at least in part, because Cloutier was a cashier who dealt with the public. However, if Cloutier was not a cashier and was responsible for cleaning the store when it was closed, it is very likely that the court would not have found an undue hardship existed.

### Hair and Grooming

What about when an employer does not question whether the claimed religion is in fact a religion, but suspects the employee is merely using his/her religion as an excuse? For instance, in *Hussein v. The Waldorf-Astoria*, 134 F. Supp. 2d 591 (S.D.N.Y. 2001), *aff’d sub nom. Hussein v. Waldorf Astoria Hotel*, 31 F. App’x 740 (2d Cir. 2002), the plaintiff sued his employer, claiming it discriminated against him when it refused to let him work as a banquet waiter when he appeared for work one evening with a beard, in violation of hotel rules. *Id.* at 592. Hussein claimed his beard was part of his religion. *Id.* at 594. However, he had not told his employer about his religion and

had not worn a beard during the 14 years he had worked for his employer. *Id.* at 596. At most, Hussein had not shaved for three months, and at the time of his deposition, he shaved daily. *Id.* at 594. Not surprisingly, the defendant doubted the sincerity of Hussein's assertion that he could not shave for religious reasons. *Id.*

The court held that Hussein failed to establish any element of a *prima facie* case of religious discrimination. First, the court found that the plaintiff used religion as an excuse. *Id.* at 597. The court found that the defendant's refusal to accommodate was not a refusal to accommodate Hussein's religious needs, but based on a reasonable belief that his beard was not sincerely related to his religion. *Id.* The court also found that the plaintiff failed to give proper notice, noting that he only attributed his beard to his religion after he was questioned about it, despite being aware of the defendant's policies, and did not give the defendant sufficient notice to work out a satisfactory arrangement. *Id.* The court noted that employers are not required to accommodate an on-the-spot demand and employees have a duty to cooperate in searching for an acceptable accommodation. *Id.* at 598.

While employees may certainly convert to new religions and adopt new religious practices over time, employers should pay close attention to requests for accommodation that relate to new practices. Employers should be even more vigilant when a request for an accommodation is made for the first time in response to disciplinary action.

In another case dealing with grooming, *Brown v. F.L. Roberts & Co.*, 419 F. Supp. 2d 7 (D. Mass. 2006), the plaintiff claimed his employer violated Title VII when it eliminated his customer contact as a lube technician after he refused to shave or cut his hair, in violation of a new company appearance policy that required employees to be clean-shaven. *Id.* at \*9. Brown alleged that he had advised his employer that as a member of the Rastafarian religion, he was prohibited from cutting or shaving his hair. *Id.* at 10. The employer argued that it made a reasonable accommodation by reassigning Brown to a new location, which eliminated customer contact. *Id.* at \*14. The court noted that Brown set forth no alternative accommodation, noting that such

an all-or-nothing strategy may impose an undue hardship on the employer, similar to the court's analysis in *Cloutier*. *Id.* at \*15. The court ultimately found that while Brown established a *prima facie* case of discrimination, the employer offered Brown a reasonable accommodation and would suffer an undue hardship if it were required

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to make a further accommodation. *Id.* at 15-17. The court granted the employer's motion for summary judgment as to the plaintiff's Title VII claim. *Id.* at 12.

From *Brown*, we are reminded that employers are only required to attempt to make *reasonable* accommodations and are not necessarily required to provide the exact accommodation an employee requests. Moreover, if an employee is only willing to accept his or her own proposed accommodation, this may allow an employer to argue that such an accommodation would be an undue hardship.

#### Tattoos

Tattoos have also been the subject of several religious accommodation suits. For example, in *E.E.O.C. v. Red Robin Gourmet Burgers, Inc.*, No. C04-1291JLR, 2005 WL 2090677 (W.D. Wash. 2005), Red Robin terminated an employee, who was a member

of the Kemetic religion, for visibly wearing religious tattoos on his wrists for religious reasons, which violated Red Robin's policy requiring that all tattoos be covered. *Id.* at \*1. Red Robin argued that allowing a religious accommodation would create an undue hardship because it would be required to allow employees to display whatever tattoos, piercings, or other displays of religious information, no matter how outlandish, simply because an employee claimed he/she needed a religious accommodation. *Id.* at \*5. The court held that the employer's argument was unsupported by facts and that the mere possibility of numerous additional requests does not constitute an undue hardship. *Id.*

Comparing the undue hardship argument made in *Red Robin* with the argument made in *Cloutier* stresses the importance of structuring an undue hardship argument to focus on concrete, rather than hypothetical, concerns.

What if the employee's religious practice is offensive to others in the workplace? The court addressed this very issue in *Swartzentruber v. Gunite Corp.*, 99 F. Supp. 2d 976 (N.D. Ind. 2000). Swartzentruber sued his employer, claiming that it violated Title VII when it required him to cover up his tattoo, which depicted a hooded figure standing in front of a burning cross, which he claimed depicted his religious beliefs as a member of the Church of the American Knights of the Klu Klux Klan. *Id.* at 978. The employer argued that it offered a reasonable accommodation, and that any alternative accommodation would pose an undue hardship because it violated its racial harassment policy and offended other employees. *Id.* at 979. The court noted that Swartzentruber did not assert or present evidence that covering his tattoo conflicted with his religious beliefs. *Id.* at 979.

On the employer's motion for summary judgment, the court found that Swartzentruber failed to establish that he held a sincere religious belief in conflict with an employment requirement, and further held that even if Swartzentruber had made out a *prima facie* case under Title VII, the employer reasonably accommodated his asserted religious beliefs by requiring Swartzentruber to cover his tattoo when he was away from the wash basin. *Id.* The

court agreed with the employer that any greater accommodation would cause it undue hardship because Swartzentruber's tattoo violated the employer's racial harassment policy (noting that some would certainly view a burning cross as a precursor to violence against African Americans and a symbol of hatred and violence based on notions of racial supremacy). *Id.*

*Swartzentruber* highlights the complexity of some religious accommodation cases. Employers must consider whether accommodating one employee's request for accommodation may fuel another employee to claim harassment or discrimination. Employers should carefully balance such competing interests and use such limitations to present undue hardship defenses against any claims brought. While the court in *Swartzentruber* even noted that the offensive nature of the tattoo at issue was obvious, if an employer receives complaints from other employees about an employee's religious practice, it should be careful to document specifically what the other employees found offensive.

### Work Schedules

Employers may also face religious accommodation requests dealing with work schedules, particularly dealing with daily prayer breaks and days of rest.

In mid-December 2015, a dispute developed between managers and Cargill Meat Solutions, a slaughterhouse in Colorado, and its Muslim employees regarding prayer in the workplace. Employees had been explicitly allowed to take religious breaks once or twice per shift, in 10-minute increments. However, employees allege that managers stated that such breaks would be curtailed. The employer denied such an announcement. However, a large number of employees walked out in protest. The employer fired 150 of the protesting employees for abandoning their jobs. Approximately 130 of the former employees filed EEOC charges, alleging religious discrimination.

While the court has yet to address the particular issues raised in the Cargill matter, a nearly identical issue was examined several years ago in *E.E.O.C. v. JBS USA, LLC*, No. 8:10CV318, 2013 WL 6621026 (D. Neb. Oct. 11, 2013). The EEOC filed a com-

plaint against JBS, a beef slaughter and fabrication facility, alleging that it engaged in a pattern or practice of denying Muslim employees a reasonable religious accommodation to allow for unscheduled prayer breaks. *Id.* at \*15. The court entered judgment for JBS, finding that JBS established that providing the requested accommo-

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dation created an undue hardship since it would have caused more than a *de minimis* burden on JBS and non-Muslim employees. *Id.* at \*20.

However, in *Equal Employment Opportunity Comm'n v. JBS USA, LLC*, 115 F. Supp. 3d 1203 (D. Colo. 2015), a similar case filed by the EEOC against JBS regarding a different facility, the court denied JBS' motion for summary judgment, holding that there were genuine disputes of material fact that prevented JBS from obtaining summary judgment on its undue hardship defense. *Id.* at \*1234. The different outcomes in the JBS cases underscores the case-by-case analysis used by the courts.

In *Harrell v. Donahue*, 638 F.3d 975 (8th Cir. 2011), a former employee of the United States Postal Services (USPS) sued the Postmaster General, alleging a violation of Title VII for allegedly failing to provide reasonable accommodation of his religious beliefs

as a member of the Seventh-day Adventist Church. *Id.* at 976. The plaintiff asked that he be given every Saturday off. *Id.* at 978. This would have violated the collective bargaining agreement (CBA), which requires a specific method for scheduling. *Id.* at 980. The district court granted USPS' motion for summary judgment. *Id.* at 978. The Eighth Circuit affirmed, holding that accommodating the plaintiff's religious beliefs would cause an undue hardship because it would require USPS to violate the CBA. *Id.* at 980. It would have also substantially imposed on co-workers, depriving them of rights under the seniority system. *Id.* at 981.

Thus, we see that when evaluating the merits of an undue hardship defense, employers should assess whether granting the requested accommodation would cause the employer to violate a CBA or some other established agreement.

In *Baker v. The Home Depot*, 445 F.3d 541 (2d Cir. 2006), the plaintiff brought a Title VII action against The Home Depot, claiming that it discriminated against him for refusing to work on Sundays at his store location in Henrietta, New York. *Id.* at 543. Baker advised the defendant that he could not work at all on Sundays due to his religious convictions. *Id.* at 545. This request was accommodated without issue for a period of time. *Id.* at 544. When a new manager took over, he was told that he needed to be flexible and if he could not work on Sundays, he could not work at this store. *Id.* When Baker was scheduled for Sunday work, he advised the defendant that he could not work on Sunday for religious reasons. *Id.* He was called in and asked why he was absent and reiterated that he could not work for religious reasons. *Id.* at 544-45. His manager offered him a shift that started after church on Sunday. *Id.* at 545. The plaintiff replied that he could not work at all on Sundays for religious reasons. *Id.* The defendant also offered Baker part-time employment, whereby he would have Sundays off, but would not be guaranteed 40 hours a week and would lose his benefits. *Id.* Baker was terminated for failing to attend work on Sunday after explaining he could not attend for religious reasons. *Id.*

The court dismissed the defendant's argument that the plaintiff's religious belief did not prevent him from working at all

on Sunday pointing to the plaintiff's own statements and the statements of his pastor. *Id.* 546–47. It held that the district court erred in finding that the defendant provided a reasonable accommodation, finding that the offered accommodation was not reasonable because it did not eliminate the conflict between the employment requirement and religious practice. *Id.* at 547–48. The court left to the district court to decide whether the part-time offer was a reasonable accommodation, but noted that an offer of accommodation may not be reasonable if it results in diminution of status or loss of benefits. *Id.* at 548.

When an employee requests a reasonable accommodation, employers should pay close attention to the employee's request before acting. Going through the motions of offering an accommodation that does not comport with the request made will not suffice as a reasonable accommodation and will create litigation exposure for employers.

### Other Practices

Religious practices leading to accommodation requests are broad in scope and extend far beyond appearance policies and work schedules.

For instance, in *E.E.O.C. v. Consol Energy, Inc.*, No. 1:13CV215, 2015 WL 106166 (N.D.W. Va. Jan. 7, 2015), the EEOC brought suit on behalf of a former employee who objected to use of the employer's biometric hand scanners to track employee time and attendance. *Id.* at \*1. The employee repeatedly advised Consol that submitting to hand scanning violated his religious beliefs as an evangelical Christian, as he claimed that the hand scanner represented the "Mark of the Beast" and the anti-christ addressed in the Book of Revelation. *Id.* The employee requested an exemption from being required to use the hand scanner, but the employer denied his request. *Id.* The employee was forced to retire. *Id.* A jury found that Consol violated Title VII because it refused to accommodate his religious beliefs. *E.E.O.C. v. Consol Energy, Inc.*, No. 1:13CV215, 2015 WL 2170012, at \*1 (N.D.W. Va. May 8, 2015). The jury awarded \$150,000 in compensatory damages and the court awarded an additional \$586,860 in lost wages and benefits. *Id.* and *E.E.O.C.*

*v. Consol Energy, Inc.*, No. 1:13CV215, 2015 WL 5012334, at \*14 (N.D.W. Va. Aug. 21, 2015). The court also permanently enjoined Consol from committing similar future acts. *Id.* An appeal before the Fourth Circuit is pending.

Cases like *Consol* depict not only the broad scope of religious practices leading to accommodation requests, but also the extent of exposure in such cases. With such high potential exposure, employers should regularly train managers on how to handle accommodation requests. While managers may not be equipped to engage fully in the accommodation process, managers should, at the very least, be able to spot potential religious accommodation issues and be able to convey them quickly to HR personnel. Having a robust HR team is great, but it is also worthless if managers are not trained to work properly with HR.

In September 2015, Charee Stanley, a Muslim flight attendant, filed an EEOC charge against her employer ExpressJet Airways, alleging violation of Title VII, which received major new headlines. A year after beginning to work for ExpressJet, Stanley converted to Islam, which she alleged prohibits her from serving alcohol. She requested an accommodation from serving alcohol, which ExpressJet initially accommodated. However, after a co-worker complained about performing extra work, she was placed on unpaid leave. Her case is still pending.

A very similar issue was recently decided by a jury in the U.S. District Court for the Central District of Illinois in *E.E.O.C. v. Star Transport, Inc.*, No. 13-cv-124. There, the EEOC brought suit on behalf of two Muslim truck drivers against their former employer, Star Transport, alleging Title VII violations. As Muslims, the employees' religious beliefs prohibited them from transporting alcohol. Both employees advised their dispatchers that their religious beliefs prohibited them from transporting alcohol when they were assigned a load containing beer. They were terminated for refusing to transport their assigned loads. The EEOC alleged that the defendant could have, but failed, to accommodate the employees. The judge found in favor of the EEOC after Star admitted liability. The case proceeded to trial to determine damages. The jury awarded \$240,000.

Now, let us return to the scenario presented at the very beginning of this article: *Imagine that you are general counsel for a popular international food company that delivers fresh meal kits directly to consumers. The company is known for its wide variety of easy-to-make meals. This morning, one of your truck drivers stated that he is unwilling to deliver meals that contain pork products due to his religious beliefs. Must you accommodate his religious beliefs?*

While we saw in *Star Transport* that at least one religion prohibits serving alcohol, you may not know whether any religion prohibits serving or delivering pork. You may consider asking the employee for documentation to substantiate his religious beliefs that prevent him from delivering pork. However, before you do so, you should consider the implications of that step. If the employee provides you with sufficient information to substantiate his need for an accommodation, are you able to provide reasonable accommodation of his religious beliefs? Or would doing so create an undue hardship? If it would create an undue hardship, then asking the employee for documentation regarding his religious beliefs could prevent you from successfully presenting an undue hardship defense if the case proceeds to litigation.

You may also consider conducting an undue hardship analysis. While in *Star Transport* the employees were delivering entire loads of a particular product, making it more feasible to switch assignments, your company's delivery loads are far different; they contain a variety of different food products. While an undue hardship argument was not successful in the *Star Transport* case, it is more likely to succeed here, where the delivery loads are constantly changing and consist of a wide-variety of food products, making it difficult simply to reassign the truck driver to another route.

As you can see, religious accommodation requests present some difficult and unique issues, with no magic solution. Tackling these issues requires creativity and complex analysis. Training managers to be able to spot these issues and bringing them to your attention is one of the best steps that you can take to protect your company. 