

in this issue

Court Considers Veganism's Status as a Religion	1
seminars, events, etc.	2
From Sergeant First Class to Mid-manager: Translating Military Resumes to Civilian Workplaces	3
Termination Talk: Loose Lips Sink Ships	4
laws and rules update	5
New Whistleblower Protections Enacted.	
employment practices	6
The Manager Did Not Act As A Cat's Paw.	
The Mixed-Motive Jury Instruction Was Properly Denied.	
labor relations	8
The Arbitration Award Was Upheld.	
The Statutes Did Not Apply To A Foreign Dispute.	
wage & hour	10
Student Completing Externship In Hospital Not Employee Under FLSA.	
occupational safety	11
OSHA Warns Of Carbon Monoxide Dangers.	
OSHA Proposes Nearly \$460,000 In Fines To Employer For Lead Exposure And Other Violations.	
news briefs	12
FLMA Celebrates 20th	
Executives Looking For More From Employees.	
cross reference tables	12

Court Considers Veganism's Status as a Religion

Maureen Minehan

5.1 Christianity, Judaism, Islam, Buddhism and ...veganism? If Sakile Chenzira's lawsuit against Cincinnati Children's Hospital Medical Center succeeds, at least one court in the country will consider veganism a religion subject to protection under Title VII of the Civil Rights Act.

In *Chenzira v. Cincinnati Children's Hosp. Medical Center*, 117 Fair Empl. Prac. Cas. (BNA) 91, 2012 WL 6721098 (S.D. Ohio 2012), Chenzira, a former customer service representative for Children's, accuses the hospital of violating her rights when it fired her for refusing to submit to a flu vaccine. Chenzira says that because the flu vaccine is grown in chicken embryos, her vegan practices do not allow her to be vaccinated with it. She argues veganism is a protected religion under federal antidiscrimination law, making her termination unlawful.

"[Chenzira] contends such discharge violated her religious and philosophical convictions because she is a vegan, a person who does not ingest any animal or animal by-products, and that prior to 2010, [Children's] accommodated her request to forgo the vaccine," Judge Arthur Spiegel of the United States District Court Southern District of Ohio Western Division explained in his ruling.

Children's attacked Chenzira's claim, arguing veganism is a dietary preference or social philosophy, not a religion. The medical center asked Spiegel to dismiss the case.

Citing Chenzira's claims that her veganism "constitutes a moral and ethical belief which is sincerely held with the strength of traditional religious views" and her inclusion of biblical citations supporting veganism, Spiegel denied Children's motion for dismissal.

"The Court finds that in the context of a motion to dismiss, it merely needs to determine whether Plaintiff has alleged a plausible claim. The Court finds it plausible that Plaintiff could subscribe to veganism with a sincerity equating that of traditional religious views... The Court's conclusion is further bolstered by Plaintiff's citation to essays and Biblical excerpts. Although [federal law] makes it clear that it is not necessary that a religious group espouse a belief before it can qualify as religious, the fact here that Plaintiff is not alone in articulating her view lends credence to her position. Accordingly, at this early stage of the litigation, the Court finds it inappropriate to dismiss Plaintiff's claims for religious discrimination based on her adherence to veganism," Spiegel wrote.

Good reminder

Karin McGinnis, a member at Moore & Van Allen in Charlotte, North Carolina, says while Spiegel's ruling involved only the motion

seminars, events, etc.

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to dismiss, employers should pay attention as the case moves through the court. “It will be interesting to see if Children’s can challenge the claim that veganism is a religion. In the meantime, it’s a good reminder that employers should consider employees’ requests for religious accommodation on a case-by-case basis. Just because their religion isn’t something you are familiar with doesn’t mean they’re not entitled to accommodations,” McGinnis says.

Brian Inamine, a shareholder at LeClair Ryan in Los Angeles, agrees. “It’s an interesting case. In 2003, a California court decided veganism is not a ‘religious creed’ under California law, but the standard for being defined as a religion under federal law may not be as tough to meet.” See *Friedman v. Southern Cal. Permanente Medical Group*, 102 Cal. App. 4th 39, 125 Cal. Rptr. 2d 663, 89 Fair Empl. Prac. Cas. (BNA) 1507 (2d Dist. 2002), as modified, (Sept. 24, 2002).

Federal law

According to the U.S. Equal Employment Opportunity Commission (EEOC) “for purposes of Title VII, religion includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism, but also religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others. An employee’s belief or practice can be ‘religious’ under Title VII even if the employee is affiliated with a religious group that does not espouse or recognize that individual’s belief or practice, or if few—or no—other people adhere to it. Title VII’s protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs.”

“Religious beliefs include theistic beliefs (i.e. those that include a belief in God) as well as non-theistic ‘moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views,” the EEOC says.

Not all belief systems will qualify as a religion, however. “Although courts generally resolve doubts about particular beliefs in favor of finding that they are religious, beliefs are not protected merely because they are strongly held. Rather, religion typically concerns ‘ultimate ideas’ about ‘life, purpose, and death.’ Social, political, or economic philosophies, as well as mere personal preferences, are not ‘religious’ beliefs protected by Title VII,” the agency explains.

Case-by-case consideration

Given the somewhat subjective nature of defining “religion” for employment law purposes, McGinnis recommends employers consider requests for accommodation of nontraditional beliefs individually. “It’s definitely worth considering employee requests on a case-by-case basis. Employees’ beliefs won’t qualify for religious protection in every case, but it’s important to not just dismiss the possibility out of hand.”

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“Employers need to be flexible and avoid a knee-jerk reaction. They need to at least engage in dialogue with the employee to learn more about the beliefs. By taking a step back and learning more about something that may not be familiar, they can better determine whether something meets the standard for a legitimate religious belief,” McGinnis says.

Linda Walton, a member in Perkins Coie’s Seattle office, notes that the EEOC allows employers to ask for more information about an employee’s beliefs. “The court’s ruling in the *Chenzira* case notwithstanding, employers are not required to accept at face value every assertion of religious belief made by employees... An employer may, therefore, make *limited* inquiry into the facts and circumstances of an employee’s claim that the belief or practice at issue is religious and sincerely held; and *if* the employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief or practice, it may seek additional supporting information,” Walton wrote in a client alert.

Undue hardship

McGinnis also reminds employers that even if an employee’s system of beliefs qualifies as a religion,

not every request will need to be accommodated. “If granting an accommodation results in more than a *de minimis* cost, employers can deny the accommodation as an undue hardship.”

The EEOC says employers can consider both direct monetary costs and the burden on the conduct of the employer’s business when testing for undue hardship. “For example, courts have found undue hardship where the accommodation diminishes efficiency in other jobs, infringes on other employees’ job rights or benefits, impairs workplace safety, or causes co-workers to carry the accommodated employee’s share of potentially hazardous or burdensome work. Whether the proposed accommodation conflicts with another law will also be considered.”

Inamine recommends employers check with legal counsel before making decisions about whether an unfamiliar belief system triggers coverage by federal or state antidiscrimination laws. “Consult with an employment lawyer if you’re going to question whether something is a religion. They can help you draw the right line.”

From Sergeant First Class to Mid-manager: Translating Military Resumes to Civilian Workplaces

Nancy Hatch Woodward

5.2 As the wars in Iraq and Afghanistan have wound down, more and more veterans are now looking for civilian jobs, and many employers want to hire them. It’s not always easy, however, to translate veterans’ skill sets into the job qualifications the employer is looking for because the military and corporate world often speak a different language. “The difficult barrier faced between veterans and employers is most likely the semantics of skills and experience translation,” says Mike Volpe, a spokesperson for the Department of Labor (DOL).

For some veterans it will be the first time they have pursued employment outside the military, and they are still learning how to translate their military skills into a civilian resume. “Military language is unrecognizable to many civilians,” notes Volpe, “and employers often find it difficult to understand veterans’ resumes if they aren’t properly translated.”

So, what’s an employer to do?

Use company veterans

The quickest and highest impact step an employer can take is to identify who in their organization is a veteran, says Emily King, vice president of military transition at the Buller Group LLC, in Heridan, Virginia. Some companies already have employee resource groups that are geared towards armed forces. Enlist their help to quickly screen resumes. As employees, they already understand the context, so all you need to do is explain the position to them. Usually they are very willing and excited to be asked to help other veterans, says King.

Volpe also suggests including company veterans in the interviewing process. They will be able to translate the person’s resume and ask effective questions to help the recruiter better understand the veterans’ skills and experi-