

SCOTUS

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Dr. Berkley also noted that affirmative action has its greatest impact on recruitment, not really on selection. “Affirmative action is not about QUOTAS,” she emphasized. “Those are illegal under the 1991 Civil Rights Act. Affirmative action is about helping those who are underrepresented in the workplace, and we make efforts by implementing programs to ensure there are opportunities for everyone to grow and develop and be prepared.”

Regarding claims of “reverse discrimination” as a fallout from the elimination of affirmative action, Dr. Berkley noted that, technically, there is no such thing. “Discrimination is discrimination,” she said. “EEO law states when we use race, sex, color, religion, or ethnic origin to make hiring decisions that is discrimination. It works for white males as much as it works for black females. If a company is making a hiring decision that says I will only hire [insert group] that aligns with protected status, it is discrimination. If I say I will NOT hire white males, that is as much discrimination as it is to say I will NOT hire black females.”

Turning to the outcome of the religious accommodations case of *Groff v. DeJoy*, the U.S. Supreme Court raised the bar on what the level of “undue hardship” should be for an employer faced with accommodating an employee’s religious beliefs but left the actual level to be defined by case and at the state level.

The case involved a postal worker who had declined to deliver Amazon packages

on Sundays due to his religious beliefs and the USPS, as his employer, claiming that providing this accommodation would be too substantial a cost for them to bear.

In a unanimous opinion, Supreme Court Justice Samuel Alito wrote, “Title VII requires an employer that denies a religious accommodation to show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.” However, the Court left the context-specific application of that clarified standard in this case to the lower courts to decide.

Dr. Berkley said that the outcome of this case will likely have employers asking applicants, “Can you do the job, with or without a reasonable accommodation? Similar to the ADA [Americans with Disabilities Act]. If the company states it requires people to work Sundays and asks, ‘Can you do that?’ The onus is on the employee to answer truthfully. It may be more costly because organizations may be required to pay overtime to cover for those who are taking those times off work for religious holidays/accommodations. My thoughts on this right now are that this is not as onerous as it might seem. It will just require more creativity and flexibility to address sincerely held religious practices.”

The IBJ asked Attorney-at-Law Thomas E. Berry with the St. Louis-based firm Jackson Lewis P.C. for input on the Supreme Court’s ruling on affirmative action and how it might impact the

workplace. He said, “It will have ripple effects in the workplace and certainly raises a number of questions about future challenges for employers too.” But then he turned the attention toward the second case, stating, “But that is not the most significant decision today for employers. Rather the *Groff v. DeJoy* decision changing the rules for religious accommodation requests is an even greater decision today than the Affirmative Action decisions.”

Berry then shared an article recently published by Jackson Lewis that noted, “The U.S. Supreme Court has ‘clarified’ and changed the religious accommodation standard under Title VII of the Civil Rights Act that employers and the U.S. Equal Employment Opportunity Commission (EEOC) have relied upon for more than 46 years.”

The article explained that “Under Title VII, employers are required to reasonably accommodate employees whose sincerely held religious beliefs or observances conflict with work requirements, unless doing so would create an undue hardship for the employer. Absent a statutory definition of ‘undue hardship,’ courts have relied on the Court’s decision in *TWA v. Hardison*, 432 U.S. 63 (1977), for the last 46 years to determine the parameters of the term. In *Hardison*, the Court stated that requiring an employer ‘to bear more than a de minimis ... is an undue hardship.’

“In a unanimous opinion authored by Justice Samuel Alito, the Court changed the test,” the Jackson Lewis-authored piece shared by Berry further noted. “Ac-

cording to the Court, it now ‘understands Hardison to mean that ‘undue hardship’ is shown when a burden is substantial in the overall context of an employer’s business.’ This is a significant change from what the EEOC and courts have stated, and on which employers have relied, for years. The Court declined to incorporate the undue hardship test under the Americans With Disabilities Act, which requires significant difficulty and expense. The Court also declined to determine what facts would meet this new test and remanded the case back to the lower court to decide, setting up what likely will be years of legal battles with courts attempting to apply this new standard.”

TIME writer Sanya Mansoor wrote in her June 29 penned piece: “Other experts argue expanding religious accommodations for employees could also be harmful.” Mansoor noted that these experts believe the Supreme Court’s decision in *Groff v. DeJoy* tells lower courts to no longer abide by the minimal cost standard that had previously guided them.

“The decision is a long overdue correction to an error that has eroded the protections that Congress enacted to safeguard workers’ rights from destruction by their employers,” cited John Meiser, director of the Religious Liberty Clinic at Notre Dame Law School, as Mansoor shared in her published piece. “For decades, courts have permitted even the richest or most powerful employers to deny religious needs that would have cost next to nothing to allow.”

Tourism

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In fact, Swift’s tour contributed to Chicago seeing the highest weekend hotel occupancy rate in history – an average of 96.8% according to reporting cited by Adams from Bloomberg.

The Capitol News Illinois report pointed out that hotel revenues, however, are only one way to measure tourism’s impact, and that other metrics have yet to match 2019’s records.

“The state’s tourism office partners with analytics firm Tourism Economics to research visitors’ impact on the state’s economy,” Adams wrote. “The agency reported to the state in June that Illinois saw 111.3 million visitors who spent \$44.3 billion in calendar year 2022. Calendar year 2019, the highest year on record for both measures, saw 122.8 million visitors who spent a combined \$45.5 billion. The hotel industry as well has not fully recovered from the pandemic’s tourism industry interruptions.”

Michael Jacobson, president of the Illinois Hotel and Lodging Association, shared with Adams that while revenues have returned, staffing levels and occupancy rates overall have not yet reached pre-pandemic levels, although they were trending toward recovery. “We look forward to returning to our place as one of the most significant economic engines, employers and taxpayers in the state,” Jacobson told Adams.

Further contributing to a positive-trending rebound are noticeable tourism investments made by the state in the last few years. Among them, the \$30.3 million widely recognized “Middle of Everything” ad campaign starring Illinois native, ISU grad, and television actress Jane Lynch, whose extensive portfolio spans back to the late 1980s and includes unforgettable character roles in *Glee*, *Criminal Minds*, and many others, and more recent portrayals such as Sophie Lennon in *The Marvelous Mrs. Maisel* series and as host of the *Weakest Link* televised game show.

The campaign, which launched in the spring of 2022, brought in an ad-

ditional two million visitors in its first year, and generated \$1 billion in Illinois hotels, restaurants, small businesses, and attractions, according to the state’s tourism office, Adams reported.

“I am proud to announce that in the fiscal year ending June 30, Illinois saw the highest ever hotel revenue numbers. More tourism means millions of new visitors exploring all the amazing things that our state and city have to offer – supporting small businesses and local economies along the way,” said Governor JB Pritzker during the July 10 joint celebration. “Whether you’re a life-long resident of the Land of Lincoln looking to explore your own state, or an out-of-town visitor curious to discover the cool entertainment, award winning culinary delights, or all the great local shopping: we’re here to welcome you.”

Great Rivers & Routes Tourism Bureau, a certified Destination Marketing Organization that serves Madison, Jersey, Calhoun, Macoupin, Montgomery and Greene counties in Illinois, says it saw a 26% increase in visitors to the region it serves.

Cory Jobe, president & CEO of the Great Rivers & Routes Tourism Bureau, noted, “In our Great Rivers & Routes region of southwest Illinois, we have seen amazing tourism growth over the last 18 months. We know that 2022 was a stellar year for our six-county region. We saw a 6.5% increase in hotel revenues coupled with a 26 percent increase in visitors to southwest Illinois.

“Our message highlighting unparalleled outdoor recreation and stunning scenic views is hitting home with our drive market audiences,” Jobe added. “We saw an increase of 35 percent in Chicago visitors, 25 percent increase in visitors from Indianapolis, a 25 percent increase in St. Louis visitors, and an 8 percent increase in visitors from Paducah, Kentucky. Those are all cities we are targeting in our marketing with the theme ‘The Great Outdoors Inside the Midwest.’

“Overall, in 2022, visitor spending in

our region increased 11 percent and our attractions reported a 25 percent increase in visitor spending. Outdoor recreation alone accounted for a 4 percent increase in spending,” Jobe said further. “This is a trend we anticipate will continue throughout 2023 and we are confident that the Great Rivers & Routes region of southwest Illinois will excel in providing amazing experiences for visitors as they explore the Middle of Everything in Illinois.”

The growth in tourism has also been extremely noticeable for Discover Downstate Illinois, the state certified tourism bureau for 21 counties in the southern portion of the state.

Officials noted that more people are looking for things to do in the region, driving record breaking numbers for Discover Downstate Illinois’ social and digital platforms. In FY23, the Discover Downstate Illinois website welcomed 135,000 new visitors, and users of the app grew by 383% from the year before.

“Our website and social media platforms have always been useful tools for folks, but when you see growth like this, it really opens your eyes,” said Andy Waterman, communications director for Discover Downstate Illinois. “Our social channels reached more than 3 million people organically in FY23, and that has resulted in a lot of interest from people to visit different events, eateries, and attractions in our region.”

Several events and attractions in the Discover Downstate Illinois region have

recently felt the tourism boom as well. The DuQuoin State Fair welcomed more than 171,000 people to Perry County in FY23, its highest attendance on record. Those visitors accounted for more than \$322,000 in revenue for the area. World Wide Technology Raceway in Madison sold out its NASCAR Cup Series race in that time frame, and welcomed thousands of other tourists for INDYCAR, NHRA, Tough Mudder, and even the WonderLights Christmas display.

“We work very closely with our communities to market and promote their events and attractions,” noted Christine Orr, sales & marketing director for Discover Downstate Illinois. “Many of our partners have reported very high visitor turnouts for their gatherings over the last year, and that visitor spending is huge for all of our cities and villages.”

“The Airshow and STEM Expo at Scott Air Force Base in FY23 is the perfect example of how tourism is growing in our region,” explained Darlene Chapman, president & finance director for Discover Downstate Illinois. “60,000 people came to the area in just one weekend, and that shows you that if people are passionate about an experience, they’ll travel for it – no matter how far it may be. We are looking forward to the Solar Eclipse in FY24 providing an even larger boost for visitor numbers as well.”

• *Capitol News Illinois contributed to this story.*



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