

"You Can't Make Me Sell That!"

Publication

1.09.08

Companies today are being faced with a surge of employees who are conscientious objectors to some part of the employer's business on the basis of their religion. Stories range from taxi drivers refusing to transport customers who are carrying liquor to cashiers refusing to service customers purchasing pork.

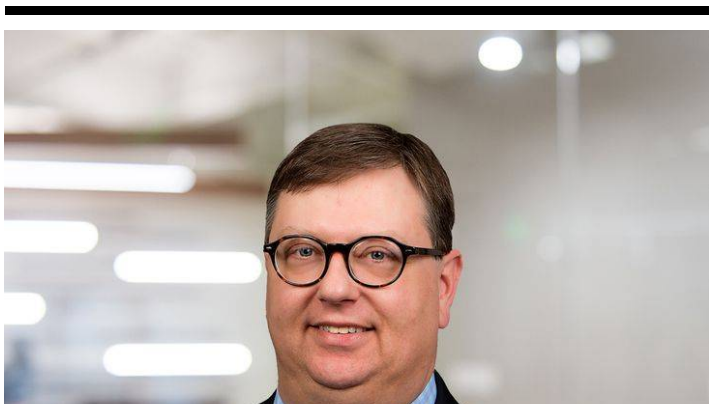
Ordinarily, an employer would rightly have little reason to tolerate such conduct. But where the refusals are based in an employee's religious beliefs, an employer cannot simply demand compliance. Title VII's duty to reasonably accommodate religious beliefs can require an employer to take steps to allow you to continue working in spite of his refusal to sell.

The basic framework of religious accommodation cases requires the employee to prove: 1) a genuinely held religious belief, 2) that the employer was notified of that belief, and 3) a request for an accommodation of that belief. After the employee states a case, the burden shifts to the employer to prove that its failure to accommodate the request was necessary because doing so would create an undue hardship.

Each request for accommodation based upon religious beliefs will turn on the facts of the specific case. And sometimes even small differences in facts can lead to substantially different outcomes. It's usually a smart idea to consult with labor or employment counsel before saying "no" to any religious-based request – even one that at first sounds extreme.

This article appeared in the January 9, 2008 issue of the *San Diego Daily Transcript*.

Related People





Edward F. Harold
Regional Managing Partner
504.592.3801
Email