

# Zap! It's the Devil – No Really: Accommodating Religious Beliefs

## Labor & Employment Law Update

By Beverly Alfon on June 21, 2017

Imagine that in order to increase time and attendance record accuracy and efficiency, you have invested in a new biometric time clock system. This makes good business sense and overall, it is a straightforward issue...until HR tells you that an employee has refused to use the time clock for *religious* reasons.

In *U.S. Equal Employment Opportunity Commission v. Consol Energy, Inc.*, (4<sup>th</sup> Cir. June 12, 2017), a coal mine worker who was a practicing evangelical Christian, refused to use a hand scanner time clock because he believed that it would “mark” him with the sign of the Antichrist. The employee offered to verbally report his time in or out, or to use a conventional punch clock. The employer responded with a letter from the scanner manufacturer indicating that because the Bible only refers to the “Mark of the Beast” as associated only with the right hand or forehead, use of the left hand in the scanner should not be of concern. The employer told the employee to use his left hand for the scanner. In response, the employee resigned and filed an Equal Opportunity Employment Commission (EEOC) charge.

Notably, the employer was already accommodating two other employees who had hand injuries. They were allowed to enter their employee identification numbers into a keypad – instead of using the scanner. The EEOC brought an enforcement action against the coal mine for failure to accommodate the employee’s religious beliefs in violation of Title VII and construction discharge. At trial, the EEOC and employee won. The award was \$150,000 in damages, plus \$436,860 in front pay, back pay and lost benefits. The coal mine appealed the decision.

The coal mine argued that there was no conflict between the employee’s religious beliefs and the requirement that he use the hand scanner system, especially in light of the employee’s admission that even his pastor did not believe that use of the hand scanner would produce a physical mark. However, the appellate court found it significant that the employee clearly laid out his religious objection to using the system overall and there was no dispute that his beliefs were sincere. The court reasoned that it is not the employer’s place to “question the correctness or even the plausibility of [the plaintiff’s] religious understandings,” and affirmed the lower court verdict and findings.

**Bottom line:** This case serves as a reminder that an employer cannot escape the requirement to accommodate simply because it thinks that an employee's religious belief is nonsensical or mistaken. If there is enough evidence to show that the employee sincerely holds a religious belief that contradicts job requirements, an employer should consider an accommodation.

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