Regulating Appearance In The Workplace: An Employer’s Guide To Avoid Employment Discrimination Lawsuits

Article By
Emily Jane Perkins
Northern Illinois University College of Law

- Constitutional Law
- Civil Rights
- Labor & Employment
- Litigation / Trial Practice
- All Federal

Tuesday, March 18, 2014
Winner Winter 2014 Student Legal Writing Contest

Meet Bob. Bob is in the process of interviewing potential employees for a sales position for his business. He recently interviewed Jamie, a young female applicant who was qualified for the job, but because she had a revealing tattoo on her arm and several facial piercings, Bob decided not to hire her. Instead, Bob wanted to hire a qualified and attractive individual who would project a professional work image and convey confidence in the job.

Now suppose that Jamie was actually hired and throughout her employment, she decided to acquire more tattoos and piercings covering her face and other exposed areas of her body. Suppose that Jamie worked at the front desk of the store, which required her to consistently interact with clients. When Bob was forced to terminate Jamie’s employment because she refused to comply with the company policy that prohibited facial jewelry and exposed tattoos, she responded by filing an employment discrimination claim alleging her religious beliefs were infringed. Unbeknownst to Bob, Jamie had recently become a member of the “Church of Body Modification,”[1] which recognized body art as a religious expression.

In both hypothetical situations it’s hardly surprising that Bob was troubled by Jamie’s appearance. There is clearly a legitimate business interest in employee appearance, and employers realize that attractiveness sells.[2] Not surprisingly, attractive individuals with a professional appearance have been found to be more effective in influencing people, which can lead to an increase in sales.[3] Employers will also use appearance as a factor in the hiring process.[4] It’s also no secret that an individual’s appearance forms the basis of a first impression.[5] Appearance affects perceived characteristics such as intelligence, motivation, wealth and overall capability.[6] It is a natural response to associate attractive individuals with better lifestyles, careers and education.[7] Physical appearance is a powerful influence in modern society, so it
should be no surprise that employers are more likely to hire physically attractive individuals and exclude individuals who do not appear to “fit in.”[8]

There has been a significant increase in appearance-based discrimination claims addressing makeup, dress codes, body weight, body art, and grooming in the past several years.[9] However, existing jurisprudence does not automatically prohibit appearance-based discrimination in the workplace.[10] No comprehensive state or federal law prohibits an employer from making adverse employment decisions when an employee or prospective employee is too heavy or too thin, revealing unconventional body art, or is generally unattractive.[11] As a result, aggrieved employees occasionally attempt to link their non-viable appearance based claims to cognizable Title VII claims.[12] Similarly, some litigants prosecute their appearance-based grievances as disability or age discrimination claims.[13]

This article will discuss the parameters of existing discrimination laws and how employers should beware of plaintiffs’ attempt to bring non-cognizable appearance-based claims into the courtroom. Part I will analyze recent appearance-based litigation, while Part II will discuss employment discrimination based on grooming. The article will conclude by discussing current litigation tactics of characterizing unprotected appearance-based claims as violative of exiting discrimination statutes how employers can protect themselves from appearance-based claims.

**Existing Federal Statutes**

Existing statutes prohibit discrimination on the basis of race, color, sex, religion, and national origin (Title VII of the Civil Rights Act of 1964).[14] Current federal law also prohibits discrimination based on age (Age Discrimination in Employment Act[15]) and disability (Americans with Disability Act[16]). Despite Title VII prohibitions, courts have generally been deferential to an employer’s desire to regulate employee appearance in the workplace.[17] In fact, courts rarely interfere with employers’ business judgments to impose gender-differentiated appearance and grooming standards unless the standards bear a clear and unequivocal relationship to a protected class.[18] Dress codes, grooming requirements, or other appearance-based policies are legally permitted as long as they are enforced in a non-discriminatory fashion.[19] Such policies must not have a disparate impact on any particular protected class regardless of the employer’s intention.[20] Where appearance standards clearly apply differently to men and women, they have been held to be prima facie discriminatory under Title VII and permissible only if based on a bona fide occupational qualification.[21]

In 1968 and 1978, Congress recognized that classifications based on age, religion sex or national origin may sometimes serve as a necessary proxy for neutral employment qualifications essential to the employer’s business.[22] As a result, Congress created a “bona fide occupational qualification” [hereinafter “BFOQ”] exception to Title VII that applies to employers who find an otherwise prohibited discriminatory action “reasonably necessary to the normal operation of that particular business or enterprise.”[23] BFOQ exceptions may apply to gender and age.[24] For example, age has been successfully established as a BFOQ primarily in occupations such as bus drivers, pilots, law enforcement officers, firefighters, and when public safety is at stake.[25]

Besides the bona fide qualification exception, the Supreme Court has not addressed the issue of appearance-based discrimination head-on.[26] In response to the existing confusion, courts continue to decide cases addressing appearance in the workplace using a Title VII framework although decisions appear inconsistent and employers and employees are uncertain of their rights and responsibilities.[27]

I. Physical Appearance

As a consequence of today’s society, courts have seen an escalation in appearance-based
Employers institute dress codes, appearance guidelines or grooming policies to guarantee a minimum appearance standard to regulate appearance in the workplace. Employers argue that they should have the discretion to regulate workplace appearance so long as their business decisions do not violate Title VII.

A. Makeup Policies

The landmark case addressing appearance-based discrimination is Jespersen v. Harrah’s Operation Co., where the Ninth Circuit upheld a Title VII challenge to an employer’s “grooming and appearance” code. Darlene Jespersen was a bartender at Harrah’s Casino [hereinafter “Harrah’s”]. Harrah’s adopted an appearance policy entitled the “Personal Best” program where bartenders were required to be “well groomed, appealing to the eye, firm and body-toned, and be comfortable with maintaining this look while wearing the specified uniform.” Females, but not males, were required to have their hair “teased, curled or styled,” and to wear stockings, nail polish, and make-up that included lip color. Darlene Jespersen never wore make-up and generally failed to comply with the appearance policy. She resigned from her employment and filed a sexual discrimination claim against Harrah’s. The court found that although the program imposed different requirements on men and women, it did not unequally burden women. The court held that women as a group did not suffer from the policy and was therefore permissible.

The Jespersen opinion continues to receive attention in the legal and non-legal press and generated renewed interest among practitioners on the issue of gender and appearance in the workplace. It was noteworthy that the court in Jespersen concluded that the employer’s dress code policy did not impose unequal burdens on males and females because the employer provided a legitimate business justification. Widespread publicity of this case has generated more employer interest in establishing policies that standardize appearance in the workplace.

B. Dress Code Policies

An employer’s right to implement a dress code was addressed in Seabrook v. City of New York. In that case, Seabrook, a female Department of Corrections officer, filed a class action lawsuit seeking injunctive relief alleging that the Department’s dress code that required both men and women officers to wear trouser pants violated her rights under the First and Fourteenth Amendments to the United States Constitution, as well as the New York State Constitution. To augment their claim, the plaintiffs claimed that their religious beliefs prohibited them from wearing pants. The court, however, accepted the Department’s nondiscriminatory reason for its dress code and agreed that the plaintiffs, like all other Department of Corrections officers, had to be physically capable of fitting into safety clothing in the event of an emergency. The court reasoned that if the plaintiffs were in skirts, they could not be in a position to respond to an emergency because the safety gear was designed to be worn with trouser pants, not skirts. The court recognized that the Department should be afforded great latitude in determining its dress code and denied the plaintiffs’ request for injunctive relief.

C. Weight Policies

Another appearance issue that generates litigation is an employee’s weight. Generally, weight is not a protected characteristic, and discrimination based on weight alone does not violate Title VII. To succeed in a sex discrimination claim based on weight, a plaintiff must establish that men and women are treated differently. Weight discrimination claims may be cognizable if they violate the ADA, which provides broad nondiscriminatory protection for individuals with disabilities. The extent to which obesity is a disability under the ADA and whether the ADA protects these individuals is a current dispute within the courts.
Obese employees may have a valid claim pursuant to the ADA if the employee’s weight substantially limits the ability to work. For example, in *Nedder v. Rivier College*, Mary Nedder alleged that her former employer, Rivier College, terminated her employment as an assistant professor in violation of Title I of the ADA. Nedder weighed approximately 375 pounds and claimed she was disabled because she was unable to walk farther than 500 yards and could not perform many of her daily activities. However, Nedder did not establish an ADA disability because she failed to demonstrate that her obesity substantially limited her ability to work, and the evidence demonstrated that Nedder was able to perform the majority of work requirements.

The *Nedder* case suggests that weight policies in workplace are permissible unless they violate Title VII or the ADA. The policies violate Title VII if restrictions on weight bear no relationship to the employment duties, but can survive ADA scrutiny when the claimant cannot demonstrate that obesity substantially limited work performance.

D. Body Art Policies

Employment policies often include sections that prohibit or limit different types of body art. The United States has more recently developed into a culture of body modification, such as tattoos, body piercings and other forms of body manipulation, which has generated more appearance-based discrimination claims. In seeking to maintain control over employee appearance, employers have adopted “body art work policies” in an attempt to prohibit body modification. In most instances, body art or modification is only decorative in nature. However in some instances, it may be associated with projected categories such as race, ethnicity or religion.

1. Tattoos

In most instances, employers may prohibit employees from exposing tattoos while at the workplace. For example, in *Riggs v. City of Fort Worth*, a police officer with tattoos covering his arms and legs was required to cover them while on duty, despite his freedom of expression argument. Riggs alleged that he was discriminated against when he was removed from the bike patrol unit and ordered to wear long sleeves and long pants. Following the transfer, the chief of police wrote Riggs a letter explaining that his arm and leg tattoos detracted from the professionalism of a Fort Worth police officer. The district court agreed with the police department that Riggs’s tattoos were unprofessional and unprotected by law. The court reasoned that the uniform requirement and job reassignment were not based on the officer’s race, gender or national origin. Therefore, his claims against the City of Fort Worth were dismissed.

Since tattoos are not usually a protected characteristic, some creative claimants may suggest that policies prohibiting display of tattoos in the workplace infringe upon the claimant’s protected religious rights. That very issue was examined in *Swartzentruber v. Gunite Corp*. Sheldon Swartzentruber was a factory worker for the defendant Gunite Corporation. As an active member of the Ku Klux Klan, Swartzentruber proudly displayed a tattoo on his forearm of a hooded figure standing in front of a burning cross. After several black employees complained that the tattoo was offensive and threatening, the personnel manager Mark Nelson concluded that the tattoo contributed to a hostile work environment and warned Swartzentruber to cover the tattoo while at work. Swartzentruber did not tell Nelson that his tattoo was religious in nature or that his religious beliefs required him to display the tattoo at work. Swartzentruber refused to keep his tattoo covered. He subsequently filed a claim pursuant to Title VII alleging that Gunite discriminated against him by not accommodating his religious beliefs when Gunite forced him to cover his tattoo. Gunite’s motion for summary judgment was granted and Swartzentruber appealed. In affirming the summary judgment, the district court held that Gunite reasonably accommodated Swartzentruber’s asserted religious beliefs by requiring him to cover his tattoo.
The court concluded that any alternative accommodation would have imposed an undue hardship on both the employer and its employees. [68] Swartzentruber was also unable to demonstrate that his work environment was both subjectively and objectively hostile, and therefore he had no claim for hostile environment harassment. [69]

2. Jewelry Policies

Employment policies often include provisions limiting or restricting jewelry in the workplace because certain jewelry detracts from a uniform and professional image. The display of jewelry was discussed in *Hedum v. Starbucks Corp.* [70] Hedum was a Starbucks employee and a member of the Wiccan religion. [71] During her employment, Hedum claimed she was subjected to repeated comments from her managers regarding her religion and religious necklace, even though other employees wore crosses or Christian jewelry. [72] Hedum alleged that she disregarded requests to remove her necklace, which resulted in her termination. [73] Starbucks contended that Hedum's employment was terminated solely because of her poor attendance record, and filed a motion for summary judgment. [74] The district court held that Hedum sufficiently established a prima facie case for religious discrimination by showing that she was a member of a protected class, qualified for her employment position, subjected to an adverse employment action, and that other individuals outside of her class were treated differently. [75] Therefore, Starbucks motion was denied. [76]

An employee’s desire to wear jewelry was also advanced as a religious discrimination claim in *Cloutier v. Costco Wholesale Corp.* [77] Kimberly Cloutier alleged that her employer, Costco Wholesale Corp. [hereinafter “Costco”], failed to offer her a reasonable accommodation for her facial jewelry that was required by her religious practice as a member of the Church of Body Modification. Before her first day of work, Cloutier received a copy of the Costco employment agreement, which included the employee dress code. [78] When she was hired, Cloutier had multiple earrings and four tattoos, but no facial piercings. Throughout her time at Costco, Cloutier engaged in various forms of body modification, including facial piercing and skin cutting, which she admitted were not motivated by a religious belief. [79] Costco revised its dress code to prohibit all facial jewelry, excluding earrings, but Cloutier disregarded the new policy. Cloutier was warned repeatedly to abide by the no-facial-jewelry-policy but she refused to comply and was eventually terminated. Thereafter she filed a religious discrimination complaint with the Equal Employment Opportunity Commission [hereinafter “EEOC”]. [80] Costco was granted summary judgment and Cloutier appealed. [81] The court of appeals affirmed and held that it would place an undue hardship on Costco to allow a cashier to wear facial jewelry. [82] The court reasoned that Costco had a legitimate interest in presenting a reasonably professional appearance to customers. [83] As a cashier, Cloutier had regular interaction with customers, and her facial piercings detracted from the professional image that was within Costco’s discretion. Given the circumstances, Cloutier’s religious discrimination claim failed. [84]

Cloutier, like other creative litigants, attempted to link her unprotected characteristic to a protected category, by claiming her facial piercings were religious practices encouraged by the Church of Body Modification. [85] Some religions may require or encourage body modifications, and if legitimately so, those practices may be protected.

II. Grooming

Employers often implement policies to control employee grooming. The majority of grooming cases appear to involve policies that regulate facial hair and hair styling. Employers reasonably expect hair and facial hair to be neatly trimmed or shaved to project a professional image.

A. Hairstyle Policies
A hair policy was upheld in *Eatman v. United Parcel Service*. In that case, an African-American employee with dreadlocks brought a Title VII action against a former employer alleging discrimination based on his race and religion. The United Parcel Service (hereinafter “UPS”) maintained an appearance policy for its employees, and required Eatman to wear a hat in order to accommodate his hairstyle. Eatman claimed he wore his hair in dreadlocks as an outward expression of internal commitment to his Protestant faith in addition to his connection to his identity and African heritage. Eatman refused to wear a hat and claimed that it caused his hair to become overheated and moist, which could cause weakness in his hair and could increase the growth of bacteria. Eatman was eventually discharged for not complying with the policy and filed racial and religious discrimination claims. The trial court dismissed both claims reasoning that Eatman’s commitment to his religion or African heritage was not enough to support either discrimination claim. Eatman’s racial discrimination claim lacked any evidence that there were any racist comments made by his employer. Furthermore, Eatman’s religious claim failed because he admitted that his hair was a personal choice, and not a mandate of his religion. The court noted that even if the Eatman’s hairstyle was required by his religion, his claim still failed because he never informed his employer that the required hat destroyed his hair. Thus, there was insufficient evidence to pursue the race and religious discrimination claims and UPS’s motion for summary judgment was granted.

The *Eatman* case is another example of a claimant’s unsuccessful attempt to link an unprotected characteristic (dreadlocks) to a protected category (race). Eatman may have been successful had he produced legitimate proof that wearing dreadlocks was consistent with his particular religious practice.

**B. Facial Hair Policies**

Facial hair was the subject of regulation in *Sadruddin v. City of Newark*. In that case, a firefighter refused to shave his beard because facial hair was required by his Islamic faith. The Fire Department terminated his employment because his facial hair interfered with the respirator he was required to wear as a firefighter. Although the employer had a legitimate business justification for sanctioning Sadruddin, his religious discrimination claim survived because he argued that he could have been sanctioned in a less severe manner.

A facial hair restriction was upheld in *E.E.O.C. v. Sambo’s of Georgia, Inc.* In that case, the EEOC brought an action against a restaurant alleging it failed to accommodate an employee who could not meet the restaurant’s facial hair standards because of his religious beliefs. Mohan Singh Tucker claimed that his employer unlawfully rejected his application for a position as a restaurant manager because he refused to shave his beard. Tucker was forbidden by his Sikh religion from shaving his facial hair and was further required to wrap his beard in a string and tie it under a turban. The district court held for the employer, reasoning that there was no violation of Title VII by insisting on clean-shaven restaurant personnel because clean-shaven employees are necessary for the success of the business. The court noted that no prima facie case exists when no accommodation is possible. Tucker was therefore not entitled to relief and judgment was entered for the employer.

**C. Hair Length Policies**

Hair length requirements may also trigger Title VII discrimination claims. *Rivera v. Trump Plaza Hotel* involved an employer’s policy that mandated specific hair length and style for men but not women. Plaintiffs Artemio Rivera and Albert Karwowski were at-will employees at Trump Plaza who wore their hair in ponytails to work. During their employment, a revised “Appearance and Grooming Policy” was implemented, which provided that “hair must be clean, neatly combed and arranged in a traditional style, and natural in color.” The policy also prohibited men from
having hair longer than mid-collar in the back, or longer than the earlobe on the side. Both men were given ample notice that the new grooming policy was being instituted. Rivera was suspended and eventually terminated for not complying with the policy. Karwowski received verbal and written warnings and was eventually terminated for failing to comply with the policy. The plaintiffs filed a complaint against Trump, claiming that the implemented hair length policies treated men differently than women, which constituted impermissible sex discrimination. Trump’s motion for summary judgment was granted and plaintiffs appealed. The appellate court affirmed and held that the plaintiffs failed to offer evidence that Trump engaged in a pattern of sex discrimination that favored women over men. The court, relying on federal precedent, determined that hair length policies generally do not constitute sex discrimination under Title VII. Accordingly, the plaintiff’s discrimination claims were dismissed.

The cases outlined above suggest that grooming policies are proper and enforceable as long as they are reasonable and instituted to promote a legitimate business purpose. The grooming policies may not withstand Title VII scrutiny if they are directed at one race or a single religion. Similarly, these policies are more likely to be held enforceable if the evidence suggests that the employer attempted to accommodate the employee’s legitimate grooming characteristic.

III. Analysis

American jurisprudence does not automatically prohibit appearance-based discrimination in the workplace. Courts recognize that employers have a legitimate business interest in promoting a professional image in the work environment. In fact, the courts are reluctant to interfere with employers’ business judgments when imposing grooming and appearance standards. However, policies regulating appearance must not have a disparate impact on any particular protected class regardless of the employer’s intention. Thus, employees and former employees are bringing lawsuits alleging violations of Title VII and state employment statutes, and claimants will only be successful if they can satisfy specific elements of existing civil right statutes.

Not surprisingly, aggrieved employees occasionally attempt to link their non-viable appearance-based claims to cognizable Title VII claims. Similarly, some litigants prosecute their unprotected appearance-based grievances as disability or age discrimination claims. The majority of appearance-based discrimination claims fall into two categories: those based on the effects of employer dress codes, grooming standards, or other appearance-based requirements, and those based on the effects of co-worker reactions to the appearance of the grievant. The judicial system is susceptible to this manipulation when claimants mischaracterize legitimate regulation of the workplace as an attempt to discrimination for an unlawful purpose.

A. Protective Efforts for Employers

As appearance-based lawsuits become more prevalent, employers who want to maintain a professional atmosphere through appearance policies must come to understand the issues that will arise as a result of these policies and how they can position themselves to avoid litigation. To avoid discrimination claims, business leaders should establish a work environment that has clear rules that apply to all employees to augment their ability to attract and retain talented employees. More importantly, human resource policies established by business owners should ensure that all employees are being judged on their performance and not on their appearance. Further, employees must realize that personal appearance decisions (such as exposing tattoos and piercings or having unconventional hairstyles) may legally impact their employment opportunities.
Without clear direction from the existing statutes, employers should be particularly careful in addressing appearance-based issues. The first thing employers should do to protect themselves from claims is to adhere to the protections encompassed in Title VII. Outlined below are other examples of policies to prevent possible appearance-based discrimination and harassment issues:

- Adopt and enforce general non-retaliation, anti-bullying and civility policies that go beyond EEOC anti-harassment guidance and other standards of compliance based on current case law;[132]
- Provide effective internal grievance procedures with basic due process guarantees so employees don't feel the need to take discrimination issues elsewhere;[133]
- Avoid imposing less favorable working conditions or assignments, reducing performance ratings for trivial reasons, denying benefits, or otherwise treating Title VII complainants differently from other employees;[134]
- Train supervisors and co-workers to deal more tolerantly with appearance, gender identity expression, mannerisms, or conduct that doesn't comport with their stereotypic or other notion of appropriateness;[135]
- Emphasize that, notwithstanding personal sensibilities or subjective preferences about such matters, anything not implicating actual job performance or the effective operation of the business should be of no concern to co-workers or anyone else in the workplace;[136] and
- Ensure that documentation of EEOC complaints is handled discretely, and not placed in the charging employee's general personnel file to which a direct supervisor may have access.[137]

Employers should also consider standard legal advice: Institute a company handbook that clearly outlines all policies and expectations for employees and create a “paper trail” to document employee misconduct.[138] Almost every employer has hired and ultimately fired an employee for a legitimate reason (i.e. an employee who has been unable or unwilling to follow workplace rules). If an employee files an unlawful discrimination charge, the employer can protect itself by retaining written documentation of the employee's offending behavior prior to termination.[139] If no warning was given, the employer’s reason for terminating the employee becomes immediately suspect.[140] Written warnings should be dated, specify the exact nature of the offending conduct, the action the employee is expected to take to bring the conduct in compliance with company requirements, and an indication of what future consequences the employee may face if the conduct is not corrected.[141]

If a problem employee does not respond rationally to a written warning, the employer should consider giving the employee a paid day off and a written memo outlining the exact nature of the problem and the employee should use the paid day off to consider how the problem could be resolved.[142] The suspension will give the employee an opportunity to cool off and will cost significantly less than defending a discrimination claim.[143]

Employers have also recently implemented “open door policies” for employees to voice complaints about co-workers and supervisors to upper management without fear of retaliation.[144] These policies can increase worker satisfaction and reduce the potential for discrimination claims.[145] The employer who devotes time to eliminating actual and perceived discrimination in the workplace will also reduce the potential for discrimination claims and will likely employ more satisfied employees.[146]

Most importantly, employers should stay consistent in the implementation of company policies.[147] Consistent application of a facially neutral standard that is justified by the employer's business requirements is the best practice to ensure the successful defense of a charge or lawsuit.[148]

Finally, the employer should provide detailed information about the demographics of the company's current and former workforces to show that the employer does not discriminate.[149]
Conclusion

As discussed, federal and state laws prohibit employers from discriminating on the basis of race, sex, religion, national origin, age and disability. Dress codes, grooming requirements, and other policies to regulate appearance in the workplace are legally permitted as long as they are enforced in a non-discriminatory fashion. The courts must balance competing interests: the employer’s interest in regulating the workplace and the employee’s interest in self-expression and individual rights. Nevertheless, creative litigants are increasingly linking unprotected appearance-based claims to cognizable discrimination claims to circumvent the absence of legal remedies for appearance-based discrimination. Uncertainty as to the viability of appearance-based claims places employers in a risky position when making employment decisions. Employers have greater chance to avoid appearance-based claims if they institute clear appearance policies enforced in a non-discriminatory fashion.

We’ve met Bob and now understand how difficult Bob’s job must be. The trends outlined above combined with varying degrees of protection for an appearance-based claim suggests that Bob will likely become a litigant soon.


[3] Id.

[4] Id.


[6] Id; See also Fowler-Hermes, supra note 3, at 32.


[8] Id.


Id.

Fowler-Hermes, supra note 3, at 32.

Id.

James, supra note 81, at 642-43.


Larson, supra note 26.

Id.


Id.

Fowler-Hermes, supra note 3, at 32.

Id.

James, supra note 13, at 662.

44 F.3d 1104 (9th Cir. 2006) (en banc).

Id. at 1105.

Id. at 1107.

Id.

Id. at 1111.

Williamson, supra note 30, at 681-82.


See Williamson, supra note 30 at 681-82.

80 F.E.P. Cases (BNA) 1453 (S.D.N.Y. 1999), aff’d, 210 F.3d 355 (2000); see also Fowler-Hermes, supra note 3 at 32.

[42] Id.


[45] Id.

[46] Id.


[48] Id. at 113.

[49] Id. at 118.

[50] See id; See also Frank v. United Airlines, Inc., 216 F.3d 845, 855 (9th Cir. 2000).

[51] See Frank, 216 F.3d at 855.


[53] Id. at 322.

[54] Id. at 321-22.

[55] James, supra note 13, at 634.


[57] Id. at 575.

[58] Id.

[59] Id. at 579.

[60] Id. at 583.

[61] 99 F.Supp.2d 976 (N.D. Indiana 2000); see also Fowler-Hermes, supra note 3, at 32.


[63] Id. at 978.

[64] Id.

[65] Id.

[66] Id.


[68] Id. at 979.
The Wiccan religion is a fairly recent religion based on ritual and worship. The religion is based on the assumption that every living thing has a spirit. Those who practice the Wiccan religion are known as witches. See Church and School of Wicca, available at: http://www.wicca.org/Church/faq.htm.
[95]Id. at 269-70.


[97]See id.

[98]34 F. Supp.2d 923 (D.N.J. 1999); See also James, supra note 13, at 649.

[99]34 F.Supp.2d at 924.

[100]Id.

[101]Id. at 926.


[103]Id. at 88.

[104]Id.

[105]Id. at 91-93.

[106]Id. at 93.

[107]Id.


[109]Id. at 598.

[110]Id. at 599.

[111]Id. at 600; Fowler-Hermes, supra note 3, at 32.

[112]Rivera, 305 N.J.Super. at 600.

[113]Id. at 601.

[114]Id. at 604.

[115]Id; Fowler-Hermes, supra note 3, at 32.


[120]Malos, supra note 19.

[121]Id.

[122]Id.
[123] Id.

[124] James, supra note 13, at 640.

[125] See id.


[127] See James, supra note 13.


[130] Id.

[131] James, supra note 13, at 656.

[132] Id.

[133] Id.


[135] Id.

[136] Id.

[137] Id.


[139] Id.

[140] Id.

[141] Id.

[142] Id.

[143] See id.

[144] Id.

[145] Id.

[146] Id.


[148] Id.


Malos, *supra* note 19.

See *id*.


Copyright © 2014 Emily Jane Perkins

**Source URL:** https://www.natlawreview.com/article/regulating-appearance-workplace-employer-s-guide-to-avoid-employment-discrimination-