



WHY WON'T HE SHAKE MY HAND?

A close look at Religious Observance from
1L to First Year Associates

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INTRODUCTION

- Where the idea for this panel originated.
- What we hope to accomplish.
- How we hope to do this with your help.
- This is not an employment law lecture.

FIVE HYPOTHETICALS

1. THE HANDSHAKE
2. DIETARY RESTRICTIONS
3. PRAYER SPACE
4. SCHEDULING AROUND HOLIDAYS
5. HIDING THE EVIDENCE
(RELIGIOUS CLOTHING / EDUCATION)

THREE FACTORS TO CONSIDER

1. INTERVENTION
2. COMMUNICATION
3. PREVENTION

GENERAL RULE

Under Title VII of the Civil Rights Act of 1964:

- An employer is obligated to provide a reasonable accommodation of an employee's religious beliefs or practices
- An employer is not obligated to provide an accommodation that would impose an undue hardship
 - A hardship is undue if it will have more than *de minimis* impact on operations or costs
 - But it must be more than a speculative hardship

THE HANDSHAKE HYPO



Here's the situation...

A rising-2L student pulls you aside during on-campus interviews for some advice. He has an interview with his dream firm coming up in an hour, but he is freaking out about the interviewer. He does not shake hands with women other than his spouse, and the interviewer was rumored to be a no-nonsense female partner. What do you do?

THE DIETARY HYPO



Here's the situation . . .

A junior associate attends your annual wine-tasting event. All law firm executives and major clients attend. You overhear the managing partner tell the associate, “Let me introduce you to our client, but we need to get you a drink first since he doesn’t talk to anyone unless they have a glass in their hand.” You know the associate does not drink alcohol for religious purposes, and she shot you a quick “help me” glance before being whisked away. What do you do?

THE PRAYER SPACE HYPO



Here's the situation . . .

On various occasions you run into an associate coming out of the restroom with a prayer rug tucked under his arm. You thought nothing of it until another associate expressed discomfort with someone taking up his “bathroom time” for praying. He has taken the liberty of drafting a quick policy statement about proper bathroom use for you to distribute firm wide. What do you do?

THE HOLIDAY HYPO



Okay, so what if . . .

A first-year associate comes into your office for guidance with respect to an assignment he received from his favorite partner. On Friday, at 4:30 p.m., the partner walked into his office and told him that the big case they have been working on has a major motions hearing on Monday at 11 a.m., and that he will need to do all of the prep work by Sunday night the latest. He observes Shabbat from Friday evening until Saturday night. This is the first time that she has asked him to work on the weekend. What do you do now?

THE HIDING EVIDENCE HYPO



Here's the situation . . .

A rising-2L student is doing a mock interview with you in preparation for on-campus interviews. During your evaluation of his performance, he points to his head and says, “Would I be more employable if I lose this or what?” You hardly noticed it, but he was wearing a kipa (i.e., a yamulke). What do you do?

BONUS HYPOS!!!



Think you're an expert? Try these on for size!

BONUS HYPO...

Your local Jewish Law Student Association has requested that your office provide a space during your Early Interview Week program so that their members can participate in Minyan – a prayer service that takes place 3 times a day, requiring an all male quorum of 10. The president of your local Women’s Law Student Association subsequently made an appointment with you for tomorrow. What do you do now?

BONUS HYPO...

During a callback interview, a partner requests to take out the student for an unscheduled meal. Since she is the head partner of the practice group for which the student is interviewing you are reluctant to say no. The evaluation you receive from the partner is a hard pass, stating that “He just doesn’t fit in with our firm’s culture.” You receive a thank you email from the student an hour later asking you to forward his sincere apologies to the partner for not ordering anything due to his fasting for Ramadan. What do you do now?

BONUS HYPO...

Your star junior associate really wants to take part in your recruiting efforts and volunteers to do on-campus interviews. After his third interview of the day you learn from an interviewee that the associate is refusing to shake hands with female students on account of his religion. What do you do now?

BONUS HYPO...

A 3L student comes into your office for some advice. She is very excited about starting her new job at a large law firm in the fall, but the starting date they gave her coincides with a lot of major holidays that she diligently observes every year. In effect, she would be in attendance at the firm on and off for the first couple of months, missing days at a time. She fears that this would be getting off on the wrong foot with her employer, but she is adamant about her beliefs. What do you do?

BONUS HYPO...

A student wants to hide or delete his Yeshiva education because he feels that interviewers will be distracted by the fact that he graduated from a Rabbinical school. What do you do now?