

Limiting Workplace Speech

- ▶ Private Employers
 - ▶ Generally:
 - ▶ **BUT BEWARE:**
 - ▶ Harassment
 - ▶ Retaliation
 - ▶ PCA
- ▶ Public Employers:
 - ▶ Generally:
 - ▶ **BUT NOT ALL**
 - ▶ Must Be: Matter of Public Concern



Political Speech in the Workplace

- ▶ State Protections:
 - ▶ PA
 - ▶ DE
 - ▶ NJ
 - ▶ NY
 - ▶ MD
 - ▶ DC
- ▶ Legitimate, business-related reasons
- ▶ Employer duty to protect employees from unlawful harassment
 - ▶ Intersection between political issues and religious beliefs
- ▶ Political Campaigning
 - ▶ Non-solicitation policies

Religious Expression in the Workplace

► Title VII:

Employee right to be free from discrimination

vs.

Coworkers' rights to be free from harassment



Religious Expression in Public Accommodations

Masterpiece Cakeshop v. Colorado Civil Rights Commission



v.



Religious Expression in Public Accommodations

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Religious Expression in Public Accommodations

Masterpiece Cakeshop v. Colorado Civil Rights Commission

- ▶ The Court ruled on narrow grounds (in a 7-2 decision) that the Commission did not employ religious neutrality, violating Masterpiece owner Jack Phillips' rights to free exercise, and reversed the Commission's decision
- ▶ The Court did not rule on the broader intersection of anti-discrimination laws, free exercise of religion, and freedom of speech, due to the complications of the Commission's lack of religious neutrality

Protected Concerted Activity (“PCA”)

- ▶ NLRA, Section 7:
 - ▶ “...that employees shall have the right to self-organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.”
- ▶ Lawful and neutrally applied work rules (i.e. soliciting *during work hours*)
- ▶ Beware Dress Codes



Off Duty Speech/PCA:

NLRB v. Pier Sixty

Bob is such a NASTY MOTHER F***ER don't know how to talk to people!!!!!! F*** his mother and his entire f***ing family!!!! What a LOSER!!!! Vote YES for the UNION!!!!!!!

Off Duty Speech/PCA:

NLRB v. Pier Sixty



Off Duty Speech/First Amendment

Briskman v. Akima



Off Duty Speech/First Amendment

Briskman v. Akima

- ▶ Just days after the image went viral, Briskman was notified that she was being terminated for the following reasons:
- ▶ (1) that the photograph could link her to Akima and Akima, as a government contractor, feared retaliation by the President or his administration; and
- ▶ (2) that the photograph amounted to obscene content on her Facebook page.

▶ \$\$\$\$ AMOUNT AT ISSUE: \$2,692.30 \$\$\$\$

Off Duty Speech/First Amendment

Munroe v. Central Bucks School District

The speech at issue here was not protected because the disruption diminished any legitimate interest in its expression

- ▶ "Seems smarter than she actually is."
- ▶ "Has a massive chip on her shoulder."
- ▶ "Has no business being in Honors."
- ▶ "A complete and utter jerk in all ways. Although academically ok, your child has no other redeeming qualities."
- ▶ "Dunderhead."
- ▶ "Complainer."
- ▶ "Nowhere near as good as her sibling. Are you sure they're related?"

Off Duty Speech/First Amendment

Munroe v. Central Bucks School District

- ▶ "Rat-like."
- ▶ "Just as bad as his sibling. Don't you know how to raise kids?"
- ▶ "Whiny, simpering grade-grubber with an unrealistically high perception of own ability level."
- ▶ "One of the most annoying students I've had the displeasure of being locked in a room with for an extended time."
- ▶ "Weirdest kid I've ever met."
- ▶ "Am concerned that your kid is going to come in one day and open fire on the school. (Wish I was kidding.)"
- ▶ "Utterly loathsome in all imaginable ways."
- ▶ "There's no other way to say this: I hate your kid."

Hypo #5



Hypo #5a



Hypo #5a



Donald J. Trump ✓
@realDonaldTrump

Following ▾

The NFL National Anthem Debate is alive and well again - can't believe it! Isn't it in contract that players must stand at attention, hand on heart? The \$40,000,000 Commissioner must now make a stand. First time kneeling, out for game. Second time kneeling, out for season/no pay!

6:17 PM - 20 Jul 2018

Hypo #5a

Jemele Hill @jemelehill

Follow

Replying to @DonnyParlock @demiltz84 @JayG34

Donald Trump is a white supremacist who has largely surrounded himself w/ other white supremacists.

8:54 PM - 11 Sep 2017

ESPN'S STATEMENT ON JEMELE HILL

"Jemele Hill has been suspended for two weeks for a second violation of our social media guidelines. She previously acknowledged letting her colleagues and company down with an impulsive tweet. In the aftermath, all employees were reminded of how individual tweets may reflect negatively on ESPN and that such actions would have consequences. Hence this decision."



3:19 PM - 9 Oct 2017

Jemele Hill @jemelehill

Following

Jerry Jones also has created a problem for his players, specifically the black ones. If they don't kneel, some will see them as sellouts.

6:47 PM - 8 Oct 2017

Donald J. Trump @realDonaldTrump

Follow

With Jemele Hill at the mike, it is no wonder ESPN ratings have "tanked," in fact, tanked so badly it is the talk of the industry!

6:42 AM - 10 Oct 2017

Hypo #6 "PISTACHIO GIRL"

Emily Youcis @realEmilyYoucis

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I'm defending White America- the majority of baseball fans. If the Phillies shun me 4 standing up 4 White America they r shunning their fans

Emily Youcis @realEmilyYoucis

Follow

If you're white and aren't scared after watching this video, there is something very wrong with you. #WhiteGenocide



The Endgame - Full White Genocide Documentary
Visit us at: <http://www.thisiseuropa.net> Want to read more about White Genocide? <http://thisiseuropa.net/whatiswhitegenocide/>
Thanks to Bob Whitaker, (<http://...>)
youtube.com

Emily Youcis @realEmilyYoucis

@themouthmatusow I merely point out facts like Jews dominate the media and banking system. Facts don't equate antisemitism.

06/12/2016, 11:01

Emily Youcis @realEmilyYoucis

Exactly, what's more important, selling nuts for a couple more years or saving the White Race from extinction?