

### **Hypo 1: Harvard State**

Harvard State University is a public university located in Cambridge, Massachusetts. Harvard State has long had a robust recreational athletic program and for years has operated several co-educational recreational facilities. One of the undergraduate facilities, the QRAC, is a small, older facility in a remote area of campus.

In January, a group of six Muslim women, with the backing of the Harvard State Women's Center, requested that the university set aside women-only hours in its recreational facilities. According to a statement made by the students, the hours were necessary because "there is a segment of the Harvard female population that is not found in gyms, not because they don't want to work out, but because for them working out in a co-ed gym is uncomfortable, awkward, or problematic in some way." When later asked by the student newspaper about the request, a female student from the Harvard State Islamic Society commented that "We should be able to accommodate the minorities within reasonable limits."

Harvard State responded to the request positively, designating the QRAC as open only to women six hours per week. Other facilities were unaffected, meaning that male undergraduates who could not exercise at the QRAC during the women-only times could still go to any other Harvard State facility. Overall, the six hours of women-only time at the QRAC comprised just over 2% of the 288 hours that Harvard State recreational facilities were collectively open in any given week.

In its official announcement, the Harvard State Athletic Department announced that "[whether] for overall comfort or religious purposes we wanted to offer an opportunity for women to work out without the presence of men." When later confronted by the student newspaper and other news organizations, a public spokesperson admitted that the motivations of the university were "primarily religious."

Daniel Ross is a Harvard State junior and a leading member of the college's Secularist Society. One Thursday in March, Ross was turned away from the QRAC while they were operating their women-only hours. Ross has now filed suit against Harvard State challenging the women-only policy on Establishment Clause grounds. Ross alleges, among other things, that Harvard State has established what in essence was Shari'a-compliant gym hours. The Harvard State Islamic Society has responded by threatening to sue on Free Exercise grounds if the hours are taken away.

## **Hypo 2: Seven Aphorisms**

Summum is a church founded in 1975 by Claude “Corky” Nowell, a.k.a. Summum Bonum Amon Ra. Among other beliefs, Summum holds that the Old Testament’s Ten Commandments are an incomplete expression of nature’s laws. A full expression, Summum believes, should also include the Seven Aphorisms of Summon:

1. THE PRINCIPLE OF PSYCHOKINESIS
2. THE PRINCIPLE OF CORRESPONDENCE
3. THE PRINCIPLE OF VIBRATION
4. THE PRINCIPLE OF OPPOSITION
5. THE PRINCIPLE OF RHYTHM
6. THE PRINCIPLE OF CAUSE AND EFFECT
7. THE PRINCIPLE OF GENDER

In 2003, Summum sent a letter to the mayor of Pleasant Grove City---a small town that was one of the earliest Mormon settlements in Utah---seeking permission to erect a monument containing the Seven Aphorisms alongside an existing monument of the Ten Commandments in the city’s Pioneer Park. The Ten Commandments monument had been donated to the city by the Fraternal Order of Eagles several decades ago. In addition to the Ten Commandments monument, Pioneer Park contains a number of other buildings, monuments, plaques, and memorials that portray and commemorate the city’s Mormon pioneer and civic heritage.

City officials denied the request, and Summum filed a suit alleging a violation of the Free Speech Clause of the First Amendment and seeking an injunction ordering the city to display its monument.

The case is now on appeal to the U.S. Supreme Court, where you are a law clerk. What is your recommendation and why?