Supreme Knockout for Abercrombie

The U.S. Supreme Court ruled last Monday, in a rare 8-1 decision, that Abercrombie & Fitch discriminated in refusing to hire a Muslim woman who wore a headscarf for religious reasons. (http://www.nytimes.com/2015/06/02/us/supreme-court-rules-in-samantha-elauf-abercrombie-fitch-case.html?smid=tw-nytimes&_r=0)

The Company defended its decision by saying that the scarf violated its "Look Policy" (which has since been modified).

Abercrombie argued that it wanted employees who looked consistent with its vision of itself as an East Coast preppy hang out. In an interesting twist, the plaintiff, Samantha Elauf, had not asked for any religious accommodation in order to be allowed to wear the headscarf, the store had simply assumed that she would need one and didn't want to deal with her different dress.

What does this mean for you? Take care not to discriminate in hiring or any other employment decision based on your perception that the applicant or employee might need accommodation. Under employment laws, you have an obligation not to discriminate based on religion or on the perceived need for accommodation.

If someone does ask for accommodation - perhaps the need to avoid Saturday work, or to take time out to pray every day - ask the experts in HR or legal to help you work out their request, since handling accommodation correctly can be tricky.

The lesson of this case - which the notoriously conservative Justice Scalia described as "an easy decision" - is not to assume that our biases or stereotypes are correct and not to make decisions based on them. Indeed, we all have them.

So, the key is to keep uncovering them and to not make employment decisions based on them.

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