

Northern New England

MONDAY MORNING MINUTE

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Don't Let Halloween Haunt Your Workplace: Avoiding Claims of Discrimination and Harassment

The celebration of Halloween has moved far from its original pagan and religious roots to become a highly commercialized and widely celebrated secular holiday. Employers looking to allow their employees to indulge in some good-natured fun, though, would be wise to bear a few things in mind in order to avoid discrimination and harassment claims:

- **Make it Clear that Participation is Voluntary.** Some employees may not celebrate Halloween or may have sincerely held beliefs against it based on their religion (Jehovah's Witnesses, Muslims, Orthodox Jews, some Christians). **Do not force employees to participate (wear a costume, decorate, attend festivities) in the holiday celebration and do not retaliate or allow your employees to retaliate against employees who choose not to participate (by referring to them as "party poopers" or not "team players").**
- **Set Guidelines for Costumes.** Even commercially available costumes may be offensive on racial, cultural, religious, or other grounds. **Remind employees to use good judgment and common sense and to avoid, e.g., costumes that poke fun at racial, gender or religious stereotypes or are too sexually-charged for the workplace.**
- **Manage Employee Behavior.** Wearing a mask or taking on a different persona often lowers a person's inhibitions. Employees in costume may act recklessly or out of their usual character, make insensitive jokes or inappropriate comments, etc. Employees also may respond to others' costumes in inappropriate ways, such as verbally responding to a sexually suggestive costume, touching a

For specific information or answers to questions, please contact any of the attorneys in the Portsmouth, NH office:

Attorney Debra Weiss Ford
(603) 559-2727
Debra.Ford@jacksonlewis.com

Attorney Martha Van Oot
(603) 559-2735
Martha.VanOot@jacksonlewis.com

Attorney Daniel P. Schwarz
(603) 559-2730
Daniel.Schwarz@jacksonlewis.com

Attorney Thomas M. Closson
(603) 559-2729
Thomas.Closson@jacksonlewis.com

Attorney Nancy E. Oliver
(603) 559-2725
Nancy.Oliver@jacksonlewis.com

Attorney Elizabeth J. Baker
(603) 559-2722
Elizabeth.Baker@jacksonlewis.com

Attorney K. Joshua Scott
(603) 559-2711
Joshua.Scott@jacksonlewis.com

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co-worker's costume, attempting to force a co-worker to "unmask", etc. **Remind employees that their behavior – as well as their costumes – should comply at all times with the employer's anti-discrimination/ harassment and diversity policies.**

Taking these few simple steps now may help employers avoid claims in the future.



The Portsmouth Office of Jackson Lewis P.C. was recently named a top tier "Labor and Employment" office in New Hampshire by *Chambers USA*.

Additionally, Office Managing Shareholder **Debra Weiss Ford** and Portsmouth Shareholders **Thomas M. Closson, Daniel P. Schwarz** and **Martha Van Oot** were named "LEADERS IN THEIR FIELD" in the 2014 Chambers USA Legal Guide.