

Northern New England

MONDAY MORNING MINUTE

September 29, 2014

EEOC Looks at Religious Discrimination from a Different Perspective

In an interesting twist on traditional religious discrimination litigation, the EEOC is suing a healthcare company in Syosset, New York claiming that the company forces its employees to engage in company-adopted religious practice. “What is so different about that?” we hear you cry. The wrinkle here is that the company claims that its self-improvement workshops and corporate wellness programs are not a religion at all and that it has every right to discipline and terminate employees who refuse to participate. The dispute has landed in federal court (U.S. Equal Employment Opportunity Commission v. United Health Programs of America, Inc. et al), and is being closely watched.

The challenged activities, led by a spiritual advisor called “Denali” (the aunt of the company’s owners and a member of the management team) include group prayer, discussion of personal matters with colleagues and management, keeping dim lighting, wearing pins and displaying cards. These practices are part of a belief system called Harnessing Happiness, better known as “Onionhead,” which was created by Denali. The EEOC alleges in the suit that as part of the “Onionhead” belief system, workers were required to thank God for their jobs and tell colleagues, “I love you.”

According to the EEOC, three former employees, who have joined the suit as interveners, refused to participate in the practices. One employee said that she did so on the grounds that she was Catholic and that the practices violated her religious beliefs. The EEOC alleged that during the next monthly visit by Denali, the employee’s desk was moved and a large statue of the Buddha was placed in her former office. She was subsequently fired after telling the owner she felt embarrassed by the action. Another worker was fired after refusing to take part in activities during a spa weekend where employees were required to “be together all the time, hold hands, pray and chant.”

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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A key issue in the case will be whether “Onionhead” is a religion for the purposes of Title VII. Although the Harnessing Happiness Foundation, www.harnessinghappiness.org, does not call “Onionhead” a religion, the EEOC’s Compliance Manual broadly defines religious beliefs: “Religious beliefs include theistic beliefs as well as non-theistic “moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.”

It is worth noting that this definition is generally used to determine whether an employee—not the employer—holds religious beliefs and it is not clear that the Federal Court will apply the same test to an employer. Just the same, the “Onionhead” belief system may well be a religion and if the employees can prove that they were fired because of their refusal to follow its dictates, they could prevail.

Employers can practice whatever religion they like, or follow any philosophy that interests them, but they should not pressure or force their employees to do the same.

Your Jackson Lewis attorney can answer questions regarding this and other employment law issues.



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.

YOU ARE INVITED!

Jackson Lewis Portsmouth Office Annual Half-Day Legal Update



Please join our Portsmouth Office for a half-day legal update on the most pressing Labor and Employment topics.

Thursday, October 9, 2014

Registration: 8:00 – 8:30 a.m. | Program: 8:30 a.m. – 12:00 p.m.

Portsmouth Harbor Events and Conference Center

100 Deer Street at 22 Portwalk Place | Portsmouth, NH 03801

For further information or to register, please see attached invitation.