

# THIS VALENTINE'S DAY, TELLING YOUR EMPLOYEES "I LOVE YOU" COULD GET YOU SUED

Insights  
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Of all the heartfelt gestures you can make this Valentine's Day – sending roses, a box of chocolates, or even just a greeting card – perhaps nothing means more than simply saying "I love you." But an employer who did just that, and encouraged its workforce to share the same sentiments with coworkers on a regular basis, learned the hard way that such comments are not necessarily appropriate for the workplace and could lead to an employment lawsuit. Read on to get a glimpse into a peculiar workplace practice, and to avoid falling into the same trap this Valentine's Day.

**Employer Introduces "Onionhead" To Its Workforce**  
Cost Containment Group (CCG) is an organization based in Syosset, New York that operates several affiliate companies in the field of healthcare support. In 2007, the CEO of the organization decided that his workforce could use improvement in the areas of communication and teamwork, and retained a consultant to assist with this project.

The consultant he hired, Linda "Denali" Jordan, also happened to be his aunt. Denali is the founder of Harnessing Happiness, a program that features the cartoon character "Onionhead." According to CCG, the Onionhead character is a communication strategy tool designed to improve workplace interactions. According to the Equal Employment Opportunity Commission (EEOC), Onionhead is a religious practice foisted upon an unwitting workforce.

In legal filings, the EEOC states that Denali diagnosed the workplace as having "disharmony" with a high number of "young people with cancer" when first arrived at CCG. She

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set out to change the atmosphere by creating camaraderie and a “unification in the people.” At first she consulted once in a while, but by 2008 she was in the office every month or two. Besides interviewing applicants, training staff, designing company goals, and consulting on management matters, she began to implement the Harnessing Happiness model through its main character, Onionhead.

### **“I Love You” And More**

One of the primary tenants of the program was that employees were required to say “I love you” when speaking to each other because, according to Denali, everyone was a part of one family. However, that was not the only unusual practice put into place by CCG. According to recent EEOC legal filings:

- Workers were instructed to select one playing card from a deck of “Universal Truths” cards each day to “shed Light” upon them and “reunite them with the ecstatic Universal Realm.” The cards contained messages designed to “connect us to ancient knowledge,” bringing them “closer to divinity and further from darkness.”
- During a weekend company retreat, workers were instructed to recite from “angel cards” and participate in late-night praying and chanting sessions until 1:30 a.m.
- Denali’s emails were off-putting to some workers, as she discussed topics such as “energetic force fields of spirit” and “our universal consciousness joining with other sun universes.”
- CCG installed Buddha and angel statues, hung spiritual posters, lit candles, burned incense, and played spiritual music around the office. A utility closet became a resource library, complete with religious books, statues, and a trickling waterfall “where angels could dwell.”
- CCG instructed employees to shut off the office’s fluorescent lamps and instead work by desk lamp, explaining that “demons” could enter through overhead lights and “fry” their brains.

The EEOC became involved when some workers complained that the Onionhead practice was actually a religion that was being forced upon them, causing several of them to lose their jobs. The EEOC claims that even nondenominational, new-age type programs can be religions under Title VII if

they are steeped in “matters of the spirit.” CCG denies this accusation, pointing out that the Onionhead practice is not a religion because it does not address fundamental and ultimate questions regarding deep and imponderable matters, does not contain any formal or external religious signs, and includes no formal services, prayers, or ceremonial functions.

### **Some Workers Did Not Love Onionhead**

The distinction between religious practice and corporate communication strategy is important because several employees allege they were mistreated for not following the Onionhead practice. If the new program introduced to the workers is considered a religion, the employer could be facing legal liability. However, if the program is simply a corporate strategy, those who chose not to follow it might not be protected under the law.

One employee, Sandra Benedict, worked remotely from her home in New Jersey. She claims that Denali told her in 2010 that the Universe had sent her a message that Benedict needed to move her family to Long Island to be closer to the office. When Benedict refused, she alleged that CCG terminated her immediately and that Denali warned her that she would be damned to hell if she applied for unemployment.

Another employee, Jennifer Honohan, actively resisted Onionhead by not turning off the overhead lights, avoiding group meetings, and refusing to give Denali a picture of her children to hang in Denali’s office alongside other members of the workplace “family.” In 2012, Denali sent an email to staff talking about a planetary alignment occurring that coming Friday that would be the “beginning of a new era, an era of truth or consequences.” Honohan feared that Denali was referring to ridding the workplace of those, like her, who didn’t believe or practice Onionhead. Sure enough, CCG terminated Honohan that same Friday.

Two account managers, Elizabeth Otaneda and Francine Pennisi, confronted Denali and informed her that they did not want to be involved in Onionhead because of their own religious views. The workers claim that they were then expelled from their private office and forced to share a less desirable workspace, and that at one point, Denali stared at them while saying, “the demons must be so angry right now.”

## **Legal Battle Rages On**

In 2014, the EEOC filed a Title VII claim in federal court against CCG alleging religious discrimination on behalf of a group of employees. The EEOC claims that CCG violated the antidiscrimination law by imposing the Onionhead belief systems on its workers, subjecting workers to an unwelcome religious environment, terminating several workers based on their religious beliefs, failing to accommodate those employees who did not want to participate in Onionhead, and retaliating against those who opposed the practice.

CCG denies the allegations and has aggressively defended its actions. Not only does it claim that Onionhead is not a religion, it claims that it had legitimate reasons for terminating the at-will workers (including insubordination, falsifying sick leave, obsolescence, incompetence, failure to report an absence, etc.) and that several of them quit of their own accord and cannot sustain a legal claim.

Almost two years later, the claim is still being litigated, with a series of pretrial motions, discovery battles, depositions, and court hearings having occurred since 2014. In late January 2016, both sides filed motions with the court asking to be declared the winner of the case, although it is quite possible that the case will continue to drag on for some time. A trial date has not even been set, and there always remains the possibility that the case will be appealed after the trial court has had its say.

## **Lessons To Be Learned**

The first lesson to be learned from this case is to avoid the temptation to tell your employees that you love them this Valentine's Day. Sure, you should let them know how much you value them, and how much you enjoy having them on your team, but professing your love could lead to problems. Even more importantly, you should avoid instructing your employees to verbalize their love for each other, as that could be interpreted the wrong way.

This case also teaches that you need to draw a line between personal philosophies and company teamwork strategies. Even if you don't believe you will be accused of running a cult or a new-age religion, it's always problematic when you are perceived as interfering with an employee's belief system or personal values and viewpoints.

In other words, keep it as secular as possible this Valentine's Day. You can give your staff flowers to show your appreciation, perhaps even some chocolates, but draw the line before saying "I love you."

If you have any questions about this case, or how it may affect your business, please contact your Fisher Phillips attorney.

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*This Legal Alert provides an overview of a specific case. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.*