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## WHITE PAPER

### Office Romances: How Employers Can Avoid the Sting of Cupid's Arrow

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As Valentine's Day approaches, employers will likely be reminded that Cupid is alive and well in the American workplace. According to the results of job Web site Vault.com's 2010 survey on office romance, almost 60% of workers said they have engaged in a workplace romance. In addition, almost 64% of those surveyed said that after having had an office relationship once, they would do it again. Employers should not expect these numbers to decrease. With the amount of time people spend at work, contrasted with the decrease in people's leisure time, the workplace has become the most convenient and most practical place to meet romantic partners. Such relationships are not always casual and disastrous – another study reported that roughly 20% result in long-term relationships or even marriage. In fact, the author of this article met his spouse at the office.

Most office romances, however, are casual and fleeting relationships that have the potential to end badly. Such relationships can poison a workplace and result in difficult-to-defend sexual harassment claims. In these situations, an employer may find itself facing allegations that what once may have appeared to be a consensual relationship was really a coerced quid pro quo relationship in which sexual relations were demanded by a supervisor in exchange for promotions or continued employment. Thus, office romances can be risky in terms of liability.

Savvy employers can avoid liability, or at least reduce the chances of major legal problems, through policies that are focused on employees' professional conduct. Below are some steps that employers can take to safeguard against the unintended legal consequences of office romances.

- **Implement Company-Wide Policies for Workplace Romance.** A policy against fraternization should be in the employee handbook and should require disclosure of office romances, but simply having a policy is insufficient. These policies help, but employers can't really legislate who can fall in love and who can't. Employers, therefore, must decide what the consequences of noncompliance will be and enforce without bias. In addition, employers should ensure their harassment policies are up-to-date and distributed to all employees upon hire.
- **Forbid Romance Between Boss and Subordinate.** It's important for employers to implement a policy that prohibits managers and subordinates from engaging in romantic relationships. Otherwise, an employer runs the risk that the subordinate later brings a



sexual harassment lawsuit claiming to have been coerced or pressured into the relationship for fear of his/her job.

- **Sign a Love Contract.** It is unreasonable to think that employers can eradicate office romance. Employees will still date one another, even if in direct contravention of a written policy. Some people, in fact, really do fall in love and have legitimate relationships with co-workers. In these cases, a growing number of companies require the employees involved to sign consensual relationship agreements, a.k.a. “love contracts.” Such an agreement requires both individuals to acknowledge the following: the relationship is voluntary and consensual; they understand the company’s policy against harassment; they will keep the relationship discreet to avoid claims of favoritism; they will avoid conflicts of interest, such as raises or disciplinary matters; and they will both conduct themselves professionally at work if the relationship comes to an end. “Love contracts” can provide significant protection against liability for employers that use them appropriately.
- **Avoiding Favoritism Claims.** If an employer becomes aware of a relationship between a supervisor and non-supervisory employee, the employer should take remedial measures to ensure the supervisor will not have any decision making authority regarding the non-supervisory employee’s promotions, raises, evaluations, or other terms and conditions of employment. These remedial measures will help avoid perceived favoritism and related claims.

By following the above guidelines, employers can help ensure that today’s office romance doesn’t become tomorrow’s courtroom drama.

*The foregoing provides an overview of certain legal issues. It is not intended, and cannot be construed, as legal advice for any purpose. For more information contact an attorney in Fisher & Phillips’ Louisville, Kentucky office (502-561-3990).*

