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Randy Maniloff: Even Valentine's Day winds up in court

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 Special to the Post-Gazette

FEB 14, 2026 1:30 AM



No aspect of human life can escape the law – even the one day a year devoted to affection. For Valentine’s Day, those in the business of courting love sometimes land in the courthouse.

Nobody loves taxes. Well, except the IRS. Hallmark shipped its Valentine’s Day merchandise to retail customers during the later part of the year preceding the holiday. Under the terms of sale, title to the goods did not pass to the buyer until January 1. The IRS sent greetings to the company, claiming that it was improperly deferring income until the year after the shipment, and owed millions in taxes.

The United States Tax Court, in *Hallmark Cards, Inc. v. Commissioner* (1988), upheld the company’s method for determining the timing of its income. Since the company did not have a lawful right to receive payment until title passed to the buyer on the first day of the year, that was when they got the income. Of course, they’ll have to pay tax on it the next year.

People see red

Here’s one, from Pennsylvania, that provided a lesson on how contracts might work. Atlantic Paper Box made heart-shaped boxes used for Valentine’s Day candy. Whitman’s Chocolates placed large orders by phone for its upcoming needs. But before the transaction was completed, Whitman’s was sold to Russell Stover. Unfortunately for Atlantic, Russell Stover made its own boxes, and the orders were cancelled.

Atlantic, seeing red, sued Whitman’s, which countered that the deal wasn’t in writing. A Pennsylvania federal court, in *Atlantic Paper Box v. Whitman’s Chocolates* (1994), concluded that the suit was not entitled to immediate dismissal as the parties’ prior “course of dealings” could have eliminated the need for a written agreement.

And of course there will be personal injury suits. Charlene Parker, while shopping in Wal-Mart, tripped over a table displaying Valentine’s Day candy. Hopefully her heart wasn’t broken. She filed suit alleging that the retailer had been negligent in placing it in the middle of an aisle, leaving a narrow space to safely walk past it.

A Kentucky federal court, in *Parker v. Wal-Mart* (2016), dismissed her case on the basis that the candy presentation was “open and obvious.” The court compared it to an orange warning cone, noting that it, as a Valentine’s Day presentation, “was designed to attract attention.” It was probably red, after all.

Flowers, beer and candles

Valentine’s Day is about love of a significant other. For one company, it is about showing love of a trademark. Some parts of the country celebrate “Sweetest Day,” an October version of Valentine’s Day. A Cleveland trade association for florists, in connection with the fall holiday, ran ads stating: “This Bud’s For You — and 11 More Rosebuds.”

Budweiser did not take it lightly and the King of Beers sought a preliminary injunction to make the florists stop. Concluding that beer and flowers are “totally unrelated,” at least as products on the market, the Ohio federal court, in *Anheuser-Busch, Inc. v. Florists Association of Greater Cleveland* (1984), denied the relief.

In the world of fresh-cut flowers, the court observed, “the designation ‘bud’ has a widely-recognized meaning of its own.” Not to mention, there was no evidence that anyone called a florist to purchase a six-pack nor did anyone call to the brewer to purchase roses.

Ten years later, Anheuser-Busch was still showing that love. It convinced the U.S. Trademark Trial and Appeal Board that the florists were not permitted to register the trademark “This Bud’s For You.”

Love can even be subject to a tariff. A company bought heart shaped candles from China to be sold as Valentine’s Day gifts. It sought to be relieved of an import duty on candles, citing an exception for those related to a holiday. In *Russ Berrie & Co. v. U.S.* (1999), the U.S. Court of International Trade (1999) noted that heart-shaped candles can be sold throughout the year and denied the exemption. The court contrasted them with Santa Claus candles, which would “give rise to puzzlement” if given as a gift during the summer.

A company agreed to transport flowers from Laredo, Texas, to Houston for Valentine’s Day. The job called for the shipment to be at a constant temperature of 42 degrees Fahrenheit. The blooms arrived in the Space City frozen, rendering them non-sellable.

In litigation between the parties, the Texas federal court, in *Groupo Floristar v. FFE Transportation Service* (2007), addressed intricacies of the romantic Interstate Commerce Act and concluded that only claims under federal law could be brought.

Even religion

Valentine’s Day legal suits even touch on religion. Avi Weiss filed a class action against See’s Candies, alleging that its Valentine’s Day Classic Red Heart Box of chocolates were certified to be Kosher when, in fact, they were not. See’s argued that Weiss and the other class members (observant Jews) suffered no damages, because the company does not charge more for Kosher products than non-Kosher products.

That missed the point, the California federal court concluded in *Weiss v. See’s Candy Shops, Inc.* (2017), because the mislabeled product was worthless to a Kosher ardent individual. The price didn’t matter. What mattered was the specific product, which See’s Candies claimed to sell but did not.

Nonetheless, the court dismissed the case. The truth of the claim wasn’t the only legal matter at issue. Even if every person who purchased an erroneously labeled product received a refund, the court ruled, the total damages would not meet the class action’s jurisdictional requirement of \$5 million.

The lesson of all these cases? As with love, justice for Valentine’s Day disputes is blind.

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First Published: February 14, 2026, 1:30 a.m.

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