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Monthly Program & Luncheon

TOPIC: Performance Based Management

WHEN: Thursday, July 2, 2009

TIME: Lunch served from 11:30AM to noon;
Program from noon to 1:00PM

WHERE: 1300 George Bush Drive and Holik Drive,
College Station Conference Center Room 101

COST: \$10/member & first time guest
\$15/non-RSVP guest

SPEAKER: **Thom Holt, SPHR** - Fairwinds Human Resource Solutions
Thom has had the pleasure of serving the Brazos Valley as a Certified Senior Human Resource Professional (SPHR). He is a Past Chapter President for the Brazos Valley Human Resource Management Association and most recently served on the Texas State Council as the SHRM Foundation. Thom also served as the Director for District 8 (the area in the triangle between Austin, Houston and Dallas) for seven years.

As such Thom provided advice counsel and mostly a listening ear for the five chapters in the District. Thom grew up in the farmland of Washington State's "Inland Empire" at the base of the mountains of Northern Idaho and Western Montana. He left the bean fields of Eastern Washington to be a plebe at the Naval Academy. Upon graduation he spent the next 21 years in Naval Aviation where he had the opportunity to pick up a hat trick of Master's degrees in, Physical Oceanography, Management Science (Human Resources in present day language) and National Security and Strategic Studies. Thom served tours as a Training Officer, a Maintenance Division

Officer, An Operations Center Director and as an Executive Officer for the Crisis Action Team (CAT) on the CINCPAC Joint Staff during Desert Storm. He was also privileged to participate in six National Rugby Tournaments. His last Navy tour was as the Associate Professor in the Naval Science Department at Texas A&M University. There he developed and presented leadership and management courses and served as the Executive Officer for 400 students and a staff of twenty. Thom transitioned overnight into the HR Manager and Safety Director for a two-line, three-facility manufactured-housing plant (Schult Homes) where he remained for over five years. During that time he grew the business through organizational change and leadership development. Their supervisors evolved into a "best in class" group which was often used to train newly established facilities within the Oakwood/Schult business model. After that internship and residency, Thom found it was a real treat to join Trajen Inc where he had the pleasure of serving 20 Fixed Base Operations (corporate aviation facilities), 6 Department of Defense Facilities, a NASA related activity and 2 aviation maintenance facilities as the Vice President of Human Resources.

Thom and his wife own their own business, Fairwinds. They enjoy providing services to both local and national business units and governmental agencies. Several have grown significantly and added Fairwinds to their payroll. Their expertise in delivering tailored HR solutions is based on a dedication to continuing education and literally thousands of actual experiences.

DESCRIPTION: Thom will discuss the foundation of strategic HR.

MENU: King Ranch Chicken, corn, green beans, tossed salad, and sweet and un-sweet tea.

RSVP: rsvpprograms@gmail.com **by noon on Tuesday, June 30, 2009.** *Please reply by the deadline to ensure that the appropriate number of meals are ordered.*



Mark Your Calendar!

BVHRMA August 2009 Program

Please join us on August 6, 2009 when **Cindy Kirk**, Director of Risk Management, City of Bryan (Texas) gives us a presentation about **Risk Management**.

This program has been submitted to the HR Certification Institute and is pending approval for (1) General Credit Hour.

SHRM /Other Events & Announcements!

CONGRATS TO...
MIKE ROOT FOR PASSING THE PHR!!!

Welcome new members...

James C. Ross
Amber Crawford
Tamara Young

***Special Congrats to Sarah & Gary Tobola...they have a precious new baby **boy** as of 6/17/09...Lance Carter Tobola! ☺*

BVHRMA Business Seminar

<http://www.bvhrma.org>

July 16, 2009

Workforce Solutions-Bryan, TX

This seminar has been pre-approved for 6.5 hours for HRCI re-certification!!

**** (Register by July 1- pay only \$75!!
Register AFTER July 1- \$99)**

PAYMENT METHOD

Please remit payment by Check or Money Order in **U.S. funds** payable:
Brazos Valley Human Resource Management Association

HR Southwest HR Rocks!

<http://www.hrsouthwest.com/>

October 13 – 16, 2009

Fort Worth Convention Center

Fort Worth, TX

REGISTER NOW!

**** (Indicate our Chapter number- #0330 during registration & our Chapter will get credit!) ****

Legal Briefs

Welcome to Legal Briefs for HR, an update on employment issues sent to over 4000 HR professionals, in-house counsel and business owners to help them stay in the know about employment issues. Anyone is welcome to join the email group . . . just let me know you'd like to be added to the list and you're in! Back issues are posted on my firm's website at www.munckcarter.com under E-Newsletter.

Here's what's up:

1. **Lights Out for Legislators** - June 1 was the last day of the 81st regular session of the Texas Legislature, so we've got a fair idea of what will become law and what died on the vine. Bills that are presumed dead include those which [a] would've forced employers to allow guns in vehicles on their premises; [b] lowered the standards for workers to qualify for unemployment compensation, in order to qualify for federal stimulus dollars; [c] statewide ban on smoking in indoor workplaces; and [d] change in workers' comp rules relating to lawsuits by contractors' employees against the worksite owner. Bills on their way to the Guv for signature include those which exempt some small businesses from the state's business tax, require back seat passengers to wear seat belts and no use of cell phones by drivers in active school zones, unless using hands-free equipment.
2. **Déjà vu All Over Again** - The rule requiring certain federal contractors to begin using E-Verify on all current and new employees who would provide services under the contract has been pushed back . . . for the 4th time. The latest effective date (take this with a grain of salt) is September 8.
3. **Mandatory Sick Days** - The Healthy Families Act (HR 2460) was filed by Rep. DeLauro (D-Conn.) on May 18 and has 101 co-sponsors. If passed, employers with 15+ employees will be required to provide one hour of paid sick time for every 30 hours worked & may cap the accrual at 56 hours per calendar year, per employee. There is no carry-over of unused time between years & you don't have to pay it out when employment ends. The accrual begins upon hire but paid sick time isn't available for use until after the 60th calendar day on the job (except for rehires with less than a 12-month break in service, who will have unused time reinstated and can use it immediately). Exempts are presumed to work 40 hours/week and those regularly scheduled to work less than that accrue sick time for actual hours worked. The paid sick time can be used for [a] the employee's own illness, injury or medical condition; [b] appointments for employee's preventive or diagnostic care; [c] to care for employee's child, parent, spouse "or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship"; or [d] absences arising from domestic violence, sexual assault or stalking. Employees are to provide reasonable notice of the need to use paid sick time and employers can require medical certification. There will be a required poster which explains, in excruciating detail, how the employee can take legal action against the employer who

fails to comply. Employers may not count paid sick time used toward any no-fault attendance policy or other type of absence control. Enforcement, penalties and limitations periods mimic those available under the FLSA. The companion bill in the Senate is S. 1152. If you want to read full text of this and other federal bills, go to <http://thomas.loc.gov> and type in the bill number or name. You can also follow the status of bills via this website, assuming you have a strong stomach.

4. **And Mandatory Vacation, Too** - Rep. Alan Grayson (D-Fla.) filed H.R. 2564 on May 21, to provide one workweek of paid vacation in each 12-month period for employees of employers with 50+ employees and two workweeks, if the employer has 100+ employees. The effective date would be three years after enactment. Employees would be required to give not less than 30 days' notice, unused vacation would not roll over to the ensuing year and the time off must be taken in a block of at least seven consecutive calendar days. To be eligible, the employee must have been employed for at least 12 months and worked at least 1250 hours in that 12-month period. Are you thinking that Rep. Grayson would sure like those vacationing employees to come to his home state of sunny Florida? ☺
5. **Harkin Up the Wrong Tree?** - Sen. Tom Harkin (D-Iowa) is fixin' to reopen the debate surrounding the Employee Free Choice Act (S. 560, H.R. 1409) in the next month. At least eight Democratic senators have questioned or opposed the bill, as written, but Sen. Arlen Specter says he thinks a compromise version is possible.
6. **Risky Business and the ADA** -
 1. In a non-binding opinion letter, EEOC legal counsel advised an unnamed county that its policy of conditioning health insurance participation upon each employee's completion of a health risk assessment (HRA) would violate the Americans With Disabilities Act's requirement that medical exams and inquiries aimed at current employees must be job-related and consistent with business necessity. The March 2009 letter also provided clean-up of an earlier EEOC response to the same question, which had implied that the HRA might be OK under the ADA's bona fide wellness plan exclusion, so long as the inducement to take the HRA did not exceed 20% of the cost of coverage. The March letter rescinded that suggestion and reiterated the EEOC's position . . . that it has yet to take a formal position on whether health risk assessments are OK under the ADA. While the Departments of Treasury, Labor and Health & Human Resources said, in Dec. 2006, that wellness programs that met certain requirements (including but not limited to the 20% rule above) would be exempt from ERISA nondiscrimination requirements, it's very important to note that EEOC did not sign off on that regulation and appears to be rattling its saber again to get employers' attention.
 2. Where the link between workplace injuries and employee drug use was merely rumored, required drug tests of current employees were prohibited medical exams under the ADA. The manufacturing facility tested employees for illegal and legal, prescribed substances and fired anyone who tested positive, even if provided with a doctor's note confirming the prescription and the worker's need to use the drug

and his or her ability to work, unimpaired, while using the substance. *Bates v. Dura Auto Sys. Inc.* (M.D. Tenn. 4-23-09). Drug testing of employees implicates a barrel full of federal and state laws, not to mention common law claims like invasion of privacy. Although "zero tolerance" may sound good, the way you get there can be a case of the medicine being worse than the disease. If you're not savvy on testing rules, get help.

7. **Healthy Choice?** - Rep. Jim McDermott (D-Wash) and Sen. Chuck Schumer (D-NY) introduced the Tax Equity for Health Plan Beneficiaries (H.R. 2625 & S. 1153) on May 21. If enacted, the measure will apply the same income tax/FICA/FUTA exclusion applicable to the cost of health insurance for employees' dependents and expand the tax break to cost of coverage for domestic partners and other folks who do not qualify as dependents, such as adult children living at home.
8. **School's Out and Summer Jobs are In** - If you plan to hire summer help under the age of 18, now is the time to refresh on federal and state child labor laws. All the info you need is on the U.S. Department of Labor website at www.dol.gov/esa/WHD/ under Youth Employment. If you click on Youth Rules! you'll find a handy chart that connects to state laws, too. Be sure to look at both.
9. **School's Out (Not)!** - Join me at one of my upcoming speaking engagements:
 1. June 10 - International Game Developers Association, Dallas chapter, at 7:30 p.m.; SMU campus in Plano (www.dallasigda.org)
 2. June 18 - North Texas Compensation Association at 11:30 a.m.; Maggiano's at Northpark (www.ntcassoc.org)
 3. June 25 - State Bar of Texas Annual Meeting at 8:45 a.m.; Hilton Anatole Hotel (www.texasbar.com/annualmeeeting)
10. **For the Birds** - If you like being "tweeted" and want breaking news on employment law changes, follow me on Twitter. I'm at @amross.

Until next time,

Audrey E. Mross
Labor & Employment Attorney
Munck Carter LLP
600 Banner Place
12770 Coit Road
Dallas, TX 75251

972.628.3661 (direct)
972.628.3616 (fax)
214.868.3033 (iPhone)
amross@munckcarter.com
www.munckcarter.com

Protecting Yourself from Identity Theft

By Morgan Stanley Smith Barney LLC.

No one can doubt the immeasurable benefits of the information revolution. Today, thanks to e-mail and the Internet, many of us are more productive, informed and connected than ever before. Unfortunately, as a result, we are also more vulnerable.

The statistics are startling. According to a 2006 survey conducted by The Better Business Bureau and Javelin Strategy and Research, nearly nine million people were victims of identity theft, costing a total of approximately \$56.6 billion.

Understanding Identity Theft

Identity theft can take many forms. It typically occurs when someone uses your name and confidential information—including your social security number, date of birth and mother's maiden name—to do something you didn't authorize. Perpetrators may take out a loan, use your credit card, open a new credit card in your name or withdraw money from your account.

A thief can obtain information about you by stealing your wallet, breaking into your car or home, going through your trash or illegally taking mail out of your mailbox. More sophisticated techniques include hacking into databases and websites, sending out fake e-mails (called "phishing"), buying website addresses similar to those of financial institutions and creating computer "spyware" programs that record your keystrokes. Information has also been stolen from computers, from data mistakenly posted on public websites and illegally copied when credit or debit cards are swiped to pay for a purchase.

Vigilance Pays

Charges or withdrawals you don't recognize on statements from your credit card, bank or brokerage firm, failure to receive a new credit card upon expiration or a check that a payee didn't receive, all point to the possibility that someone may have accessed your account without your knowledge.

How can you protect your personal information? You can reduce your vulnerability by being vigilant about protecting your personal information, monitoring your financial transactions, using updated computer technology and protecting your credit.

Here are some specific steps you may wish to consider:

Maintain Your Privacy

- Before giving out your date of birth, social security number or driver's license number, ask why the information is needed.
- Use a good shredder to dispose of anything containing your personal information: account statements, credit card solicitations, checks (both canceled and unused), paycheck stubs and medical records.
- Include only the last four digits of your credit card account on checks when sending a payment to your credit card provider.
- If mail containing a canceled check or financial information has been tampered with, you may want to close the account and open a new one.

Monitor Financial Communications

- If someone contacts you by phone, letter or e-mail, claiming to be from your financial institution and informs you of unusual account activity or asks questions to verify your identity, don't provide any information. Call the financial institution's main number (listed on your account statement or on the back of your card) to ensure that you're speaking with an authorized representative and report the incident. Be just as circumspect with an e-mail from a financial institution—if you hit "Reply" or go to a website listed in an e-mail, you risk falling into a trap.
- Scrutinize every account statement you receive and make sure you can identify all the transactions. Some thieves will put small charges on your card (some under \$1) to see if you catch on before they start making larger purchases.
- Mail and paper are still currently the most common path to identity theft. If properly used, electronic receipt of statements and electronic bill payment can be safer than some paper-based transactions.

Use Updated Computer Technology

- If you're using a computer at home, keep your operating system up to date, set up a firewall and keep your virus protection and spyware detection programs current. If your computer has a feature for Internet use that notifies you if a form you're submitting is being redirected, be sure that feature is activated.
- When conducting online transactions, look for "https" at the beginning of a website's address—the "s" indicates that the information was transmitted in encrypted fashion from a secure site.

Safeguard Your Credit Information

- Consider using one credit card that has a low limit for online purchases.
- Keep copies of your credit cards in a safe place in your house, and carry only the cards you need.
- Cancel and then cut up credit cards you don't use.
- Take advantage of the free credit report you can get from Equifax, Experian and TransUnion, the three major credit bureaus. You can call 1-877-FACT-ACT (1-877-322-8228) or go to www.annualcreditreport.com. Review the accounts in your name—if you don't recognize them, contact the credit bureaus immediately.

How to Respond

Unfortunately, even the most cautious of consumers can still be victimized by identity theft. If it happens to you, here are five steps that can help:

1. Call your financial institution immediately and close the compromised account. Ask what they recommend you do next.
2. File a complaint with the Federal Trade Commission, 1-877-IDTHEFT (1-877-438-4338), www.consumer.gov/idtheft.
3. Contact the Social Security Administration, which maintains a fraud hotline, 1-800-269-0271, www.ssa.gov/oig/public_fraud_reporting/index.htm.
4. Contact the fraud division of one of the three main credit bureaus to consider having a fraud alert put on your file. The credit bureau will then notify the other two bureaus of the fraud: Equifax (1-800-525-6285, www.equifax.com), Experian (1-

888-397-3742, www.experian.com) and TransUnion (1-800-680-7289, www.transunion.com). The free 90-day security alert informs creditors that they must contact you before opening a new account or making changes to your existing account.

5. You can file a police report and submit a copy to the financial institution affected by the fraud as proof of the crime.

In working with credit card companies, banks, credit bureaus and law enforcement agencies, the time it takes to recover from identity theft can be extensive. The Javelin/Better Business Survey also found that victims of identity theft spend a high of 40 hours each recovering from the crime. Protecting your information to begin with is certainly the most cost- and time-effective strategy.

Rick Cantu is a Financial Advisor at Morgan Stanley Smith Barney located in Plano, Texas and may be reached at 972-943-7243 or ricardo.m.cantu@smithbarney.com.

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Please remember to RSVP to rsvpprograms@gmail.com by **noon on Tuesday, June 30, 2009** for the 07/02/09 Program: **Performance Based Management**

SHRM Membership

Ever wonder if SHRM membership is worth it? Check out all that comes with being a member of the largest HR Organization in the World!!!

Federal and State Government Affairs www.shrm.org/government

- Federal Affairs
- Hot topics
- Policy and position statement
- HR Voice
- Periodic e-mail alerts
- State Laws & Regulations
- Pending state legislation
- State-by-state information
- Biweekly legislative newsletter
- Federal resources and links
- Fact sheets
- Regulatory developments
- Legislative action center
- Tool to get involved in influencing legislation
- Enacted laws
- Policy tools
- HR Issues Update

SHRM Publications www.shrm.org/pubs

- *HR Magazine*®
- HR Week e-newsletter and podcast
- *SHRM*® *Legal Report*
- *Managing Smart*
- Download articles designed for your line managers for **FREE** to use in your own in-house electronic or printed newsletters
- *Staffing Management*™ Magazine
- *Workplace Visions*® newsletter
- HR Focus Area E-newsletters

HR News www.shrm.org/hrnews

- HR News Stories
- Court Report
- Member News
- Inside SHRM
- HR News Weekly Quiz
- HR Congressional Monitor

Online HR Knowledge Center www.shrm.org/kc

- Express requests
- HR FAQs
- HR Solutions
- FLSA and Healthcare resources
- White papers and articles
- State laws and regulations
- Salary survey directory
- Sample policies, job descriptions, forms, RFPs, mission statements
- HR Basics
- HR metrics
- SHRM research
- More than 100 HR toolkits
- Free state regulation posters
- Leading economic indicators

HR Focus Areas

Online communities for specialized HR content, including:

- Compensation & Benefits
- Global HR
- HR Consulting
- HR Measurement
- Staffing Management
- Business Leadership
- HR Outsourcing
- HR Technology
- Workplace Diversity
- Workplace Law
- Public Sector
- Organizational and Employee