



March 2005 Newsletter



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March 2005 BVHRMA Luncheon

When: Thursday, March 3, 2005

Where: Room 101, College Station Conference Center

Time: 11:30 a.m. - 1:00 p.m.

Cost: \$10/member; \$15/guest

RSVP: konny@igoergo.com by Tuesday, March 1, 2005

Topic: Personality Assessments: What are they? What are the differences in the Types? How do you use them?

Presented by: Many companies invest the time and energy to take the assessments and then refuse to take the time to use them. Our Fast-Food Society often delegates leadership to the first one off the starting line and does not give due credit to those who finish the race healthy enough to compete in the next. Real Life does not end because it is time for a commercial. Join Thom Holt as he facilitates you through the myriad of questions surrounding Personality Assessments from the HR perspective.

Thom Holt, SPHR, serves the Brazos Valley through his company, Fairwinds Human Resource Solutions, LLC. and has worked in the private industry for the last 10 years as the HR Manager and Safety Director for Shult Homes and as the Vice President of Human Resources at Trajen, Inc. Before that, he spent 21 years in the Navy and found himself at Texas A&M as an Associate Professor developing leadership and management courses.

Trend of Faster Eligibility for 401(k) Continues

New hires are able to participate in 401(k) plans faster than ever, according to survey results from the Profit Sharing/401(k) Council of America (PSCA). In its survey, PSCA found that participation within the first three months of employment is available in 60% of 401(k) plans. This is up from 2003, when participation within the first three months of employment was available in 51% of the plans.

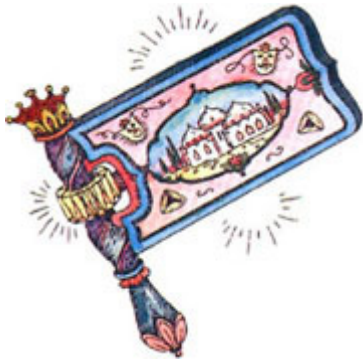
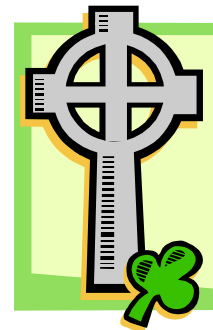
Brazos Valley HRMA is an affiliate of SHRM (Society for Human Resource Management). For more information about HR employment, résumé's for individuals seeking a career in HR, and to find helpful links to other HR relevant web sites, go to www.bvhrma.org.

Diversity Awareness Dates March 2005



American Red Cross Month
Women's History Month
Irish-American Month

- 1- St David of Wales - Christian
- 6- Meatfare Sunday - Orthodox Christian
- 8- Maha Shivaratri - Hindu
- 13- Cheesefare Sunday - Orthodox Christian
- 14 - Lent begins (Clean Monday) - Orthodox Christian
- 17 - St Patrick's Day - Christian
- 20 - Palm Sunday - Christian
- Orthodox Sunday - Orthodox Christian
- 21 - Norooz (The New Day) - Zoroastrian
- Nau-Roz (New Year's Day) - Baha'i
- Ostara - Wicca



- 23 - Birth of Mahavira - Jain
- 24- Maundy Thursday - Christian
- Lord's Evening Meal - Jehovah's Witness Christian
- 25- Purim - Jewish
- Good Friday - Christian
- Annunciation of the Blessed Virgin Mary - Orthodox Christian
- Magha Puja Day - Buddhist
- Holi - Hindu
- Greek Independence Day

- 26- Khordad Sal (Birth of Prophet Zarathushtra) - Zoroastrian
- Holy Saturday - Christian
- 27- Easter - Christian



Legal Briefs for HR

By Audrey E. Mross

1. Heads Up, Contractors - Legislators continue to propose penalties for employers who move jobs overseas. In the latest salvo, H.R. 829, if passed, would disqualify an employer from receiving federal contracts if jobs were off shored in the last five years, unless that company can show it also created new jobs in the U.S. Penalties for failing to create and maintain the agreed upon number of jobs include a fine equal to 125% of the value of the federal contract. On the state level, IL has a new law that requires prospective state vendors to disclose where the contract and subcontract work will be performed (i.e., domestically vs. overseas) and allows the state's chief procurement officer to take this info into consideration, when awarding contracts.

2. You Too, Call Centers - The DOL is ratcheting up enforcement of the FLSA's overtime provisions in in tech workplaces, to the tune of nearly \$5 million for call center workers and another \$4.5 million in nontechnical Internet and computing fields, in the current fiscal year. In some workplaces, employees were paid for time on the phone or on-line only, and not for time spent logging on, reading relevant materials, or other tasks performed before or after calls are taken.

3. Help for Heroes, Part 2 - The last edition of Legal Briefs described a change in the law which extends the period during which employees who perform U.S. military service can keep their civilian health insurance coverage, from 18 months to 24. Now, Congress has introduced H.R. 838 which, if passed, will give employers a tax credit for offering "gap pay" (i.e., the difference between the employee's civilian and military pay) to activated Guard and Reserves personnel. In addition, the measure would offer a tax of credit of up to \$12,000 for the cost of hiring and training a temp. Also, gap pay would be treated as wages and reflected on the employee's W-2, rather than the current approach of using Form 1099 for those payments.

4. What's Cookin' - New child labor rules, which took effect on Feb. 14! The changed rules affect jobs involving cooking, driving, roofing, and working with balers, compactors and explosives when performed by a worker under age 16. No more work on open flame grills or deep fryers that lack automated raise/lower technology and no cleaning of

equipment, including removal of grease or oil, unless the temp of those items is 100 degrees or less. For more details, go to www.dol.gov/elaws/esa/flsa/cl.

5. Right to Work - Right to work laws are on the books in 21 states (see www.nrtw.org/rtps.htm for a chart), including Texas. If passed, H.R. 500 would repeal portions of the federal National Labor Relations Act and make every state right to work. Although often confused with at-will employment, right to work means the employer cannot require employees to join a union or pay union dues as a condition of hire or continued employment.

6. Oh Say Can You See - The 7th Circuit has held that Arthur Andersen did not violate WARN by failing to give thousands of laid-off employees 60 days written notice, since the "unforeseeable business circumstance" exception applies. Although trouble was brewing with the SEC for nine months before indictments were issued, the company was negotiating with the DOJ, to avoid criminal charges. Only after the indictments issued did the company experience the large scale loss of clients that led to the need for deep staff cuts. Employees argued that AA knew it was in trouble, but the court explained the extent of those troubles was not clear early on and the "WARN Act deals in reasonable probabilities, not possibilities." *Roquet v. Arthur Andersen* (7th Cir. 2-9-05).

7. Waste Not, Want Not - Citing the small percentage (18%) of eligible employees who sign up for flexible spending accounts for fear of forfeiting unspent funds, three senators have filed S. 309, which would allow up to \$500 in unspent funds to be carried forward into the next year or shifted into a health savings account, each year. The bill's supporters explain that the present use-it-or-lose-it approach encourages "perverse results" such as not participating at all, or participating but spending money on health care products and services that are not truly needed.

8. AARP on the Offense - AARP has secured a preliminary injunction, delaying publication of (*Continued on page 5*)

Let the Games Begin!

The 2005 SHRM Texas State Council, Texas HR Games and Leadership conference will be March 4 & 5, 2005 in San Antonio Texas at the University of Texas at San Antonio. The TSC College Relations Directors are encouraging participation in this year's HR Games and Student Leadership Conference and would welcome additional volunteers to help work the event. Volunteering at the games is a great way to watch young adults compete and learn more about the field of Human Resources. Last year BVHRMA and the TAMU Student SHRM chapter hosted the event at Texas A&M University. It was and continues to be a fun and rewarding experience assisting future HR leaders grow in the field. For more information contact Leah Smith, leah.smith@trajen.com, or Dr. Barbara Lyon, SPHR, lyon@hot.rr.com. Hope to see you in San Antone!!!!

BVHRMA Meetings 2005

April 7, 2005, 11:30am	Instructional Lay-offs by Dr. Michael Wesson, Mays Business School	College Station Conference Center
May 5, 2005, 11:30am	Networking lunch with 1/2 session on Employee Retention by Jill Hickman	College Station Conference Center
June 2, 2005, 11:30am	TBA	College Station Conference Center

Upcoming Seminars & Conferences

<p><u>Employment Law & Legislative Conference</u> March 14-16, 2005 in Washington, D.C. http://www.shrm.org/conferences/leg/</p> <p>Designed to keep you informed about the latest legislative issues pending at the federal and state level as well as compliance and regulatory issues that affect how you conduct day-to-day HR business.</p>	<p><u>SHRM Global Forum Conference & Exposition</u> April 11-13, 2005 in Chicago, IL http://www.shrm.org/conferences/global/</p> <p>Conference highlights include strategic discussions, workshops and presentations about global HR practices and issues from world-renowned experts of global HR</p>
<p><u>EMA Conference & Exposition</u> April 20-22, 2005 in Dallas, TX http://www.shrm.org/conferences/ema/</p> <p>This conference dedicated to HR professionals specializing in employment and staffing and is specifically designed to focus on the distinctive interests and professional development needs of employment professionals.</p>	<p><u>1st Annual Texas Diversity & Leadership Conference</u> May 9-11 in San Antonio http://texasdiversitycouncil.org/conference/</p> <p>Designed to provide a platform for dialogue on inclusion and diversity-related issues that impact our state. Participants will share best practices and strategies for integrated diversity initiatives to link business goals to workplace, marketplace, and community diversity objectives.</p>
<p><u>SHRM Annual Conference & Exposition</u> June 19-22, 2005 in San Diego, CA http://www.shrm.org/conferences/annual/</p> <p>Certificate programs, SHRM Academy, the Masters Series featuring world-renowned experts in the field of management sciences, and a variety of other educational programs all designed with your HR needs and development in mind.</p>	

Spring Job Fair

The 2005 Spring Job Fair date is Wednesday, April 13, 2005. The fair will be at the College Station Hilton from 2:00 – 6:00 p.m. BVHRMA has previously operated a booth at the fair providing resume' review services. Look for more information about volunteer opportunities at this year's fair.

(LEGAL BRIEFS FOR HR continued from pg 3.)
EEOC regulations that would allow employers to eliminate or reduce retirees' health benefits upon eligibility for Medicare or analogous state benefits, without risking an ADEA lawsuit. The regulations were approved last April (see Legal Briefs for HR #5 - 2004) but had not yet been published. Oral argument is set for March 31.

9. Flummoxed by FLSA - An HR manager who ticked off technical workers by deeming them nonexempt and eligible for overtime may proceed with her FLSA retaliation and age claims, after she was fired by the company president. In reversing summary judgment for the employer, the court noted that the president had sided with an employee who presented "modified and exaggerated duties" that contradicted the HR Manager's analysis, and had ordered her replacement to change the classifications back to exempt. This evidence, in addition to the timing of the discharge, could allow a jury to infer that the real reason for the discharge was the HR Manager's refusal to make requested changes rather than poor performance. *McDaniel v. Transcender LLC* (6th Cir. 1-31-05).

10. Help for Uninsured - A coalition of large employers and the HR Policy Association plan to offer health insurance to up to 3 million uninsured in Sept. 2005. National Health Access must be approved by state insurance regulators and will offer six levels of coverage at varying prices, to workers who are often ineligible for coverage -- contractors, part-timers,

temps, seasonal workers and their families. For more info, check out www.hcpr.org.

11. Habla Espanol? - The EEOC launched a Spanish version of its website on January 11 at www.eeoc.gov/es/, to serve the country's largest and fastest growing minority group.

12. ADA Hostile Environment? - Yes, hostile environment based on disability is a recognized cause of action in the 10th Circuit (OK, KS, NM, CO, WY and UT). *Lanman v. Johnson County* (10th Cir. 12-30-04). The 4th, 5th (TX, LA and MS) and 8th Circuits have also found such claims actionable. While it's important to have good sexual harassment policy, procedure and training in place, don't forget to include mention of other protected categories in your anti-harassment measures.

13. This Workplace is a Zoo - Two former caretakers of Koko, the gorilla who communicates via sign language, have sued their former employer for sex discrimination and wrongful termination. Among the alleged adverse employment actions is this gem . . . pressured to expose their breasts in order to "bond" with the big ape. Koko, that is.

*** Audrey E. Mross serves as the Co-Director of Legislative Action for SHRM Texas State Council. She is Labor & Employment Attorney with Haynes and Boone, LLP. You may contact her at audrey.mross@haynesboone.com or 214.651.5577.*