



BVHRMA Newsletter

October 2009

Chapter #0330



Articles

Monthly Program & Luncheon

➔ Monthly Program and Luncheon

TOPIC: *Society for Human Resources Management*

WHEN: Thursday, October 1, 2009

➔ Mark Your Calendar!

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

➔ SHRM/Other Events

WHERE: 1300 George Bush Drive and Holik Drive,
College Station Conference Center Room 105

➔ Diversity Calendar

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

➔ Legal Briefs

SPEAKER: **Dorothy Granfor**, MS, SPHR Director - District Fifteen, Texas State Council Leadership

Ms. Granfor is the Human Resources Manager for Acer America Corporation in Temple, Texas. Dorothy has been in Human Resources Management with companies in the public and private sectors since 1993. She currently serves as a District Director on the Texas State Council for the Society of Human Resource Management and received her SPHR Certification in May of 1999. Ms. Granfor most recently served as an Executive Member of the Heart of Texas Workforce Board, which serves a six county region in Texas. She holds a Master of Science Degree in Information Systems Management from Tarleton State University, a Bachelor of Business Administration Degree with an emphasis in Human Resources Management (also from Tarleton State University), and an Associates Degree in Management from Temple College.

MENU: Southern Meatloaf, mashed potatoes, green beans, dinner rolls, tossed salad and sweet and unsweet tea.

If Attending: rsvpprograms@gmail.com by noon on Tuesday, September 29, 2009. *Please reply by the Deadline to ensure that the appropriate number of meals are ordered.*



Mark Your Calendar!

BVHRMA November 2009 Program

Please join us on November 5, 2009 when **Stuart J. Yoffe, M.D., F.A.A.P.** of *Innovative Health Care* talks to us about Getting the Best Health Care System at the Best Price (The Thirty Minute Update on How to Reduce Pediatric Emergency Room Abuse and Misuse).

SHRM /Other Events!

**HR Southwest
HR Rocks!**

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

October 13 – 16, 2009
Fort Worth Convention Center
Fort Worth, TX

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

BVHRMA Hosts New Member Orientation

October 27, 2009

11:30-1pm

More details coming soon!

OCTOBER DIVERSITY DATES

**Diversity Awareness Month

**National Breast Cancer Awareness Month

**[National Disability Employment Awareness Month](#) - National Disability Employment Awareness Month began with the Presidential Proclamation of Public Law 100-630 (Title III, Sec 301a) in 1988. This law replaced National Employ the Handicapped Week which had occurred annually since 1945 during the first week of October. The new law also recognized a change in terminology and replaced "*handicap*" with "*disability*."

3 - [Sukkot](#)* (Jewish)

10 - [Shemini Atzeret](#) (Jewish)

11 - [Simchat Torah](#) (Jewish)

12 - [Columbus Day](#)

17- [Diwali](#) (Buddhist, Hindu)

21 - Cirio de Nazare (Brazil)

25 - Mother-In-Law Day

31 - [Halloween](#) (United States) *Boo!*

31 - Reformation Day (Christian)

HR CORNER....It's Legal Briefs Time!!!

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. **Gentle Reminder** - It's that time of year again! Back to school also means, for many employers, time to assemble their Standard Form 100 (aka EEO-1 report) and for certain federal government contractors, to add the VETS-100 and/or VETS-100A reports to their "to do" list, too. Both the Joint Reporting Committee and VETS of the U.S. Dep't of Labor prefer to receive these reports electronically, so go to www.eeoc.gov/employers/surveys.html and www.dol.gov/vets/programs/fcp/main.htm to see sample forms, filing instructions and FAQs.
2. **Urgent Reminder** - After several false starts, it appears that certain federal contractors and subcontractors will be required to begin using E-Verify on Tuesday, Sept. 8. The Dep't of Homeland Security (DHS) announced its intent to mandate use of the system in July, and a legal challenge that was pending in MD failed when the District Court upheld the regulation on 8-25-09. Contracts issued after that date will include a clause requiring use of E-Verify on both new hires and existing employees who will work on the government contract. Employers who are not yet registered with E-Verify must enroll within 30 days of the contract award. For details about the requirements, go to www.dhs.gov/index.shtm and click on "E-Verify" in the Popular Searches section.
3. **More Contractor Conundrum** - Add NJ to the list of states that are increasing penalties against employers who misclassify employees as independent contractors. Effective 7-10-09, if an employer doing business with the state fails to provide workers' compensation for its employees or misclassifies some as contractors, the state is required to issue a stop-work order within 72 hours which stops work at every job site where violations occurred. Work cannot resume until the noncompliance is addressed and any penalty is paid. If the violation was "knowing" the penalty can be \$5000 plus an additional \$5000 for each 10-day period of noncompliance plus up to 18 months in prison.
4. **New Life for Form I-9** - A recent version of Form I-9 (has 2-2-09 revision date) expired on 6-30-09 and employers were told it was OK to continue using it past that date. A new version (has a 8-7-09 revision date) is now available and sports a 8-31-12 expiration date. Employers are free to use either version and you can always find a fresh copy (in English or Spanish) at www.uscis.gov/i-9.

5. **Scratch the No Match** - DHS issued a proposed rule on 8-19-09 to rescind the so-called No Match rule, which was created to clarify the existing law and provide a safe harbor for employers faced with a notice that their employee's name and SSN did not match the one on file with the SSA and DHS. Enforcement of the rule was enjoined before it was implemented. Instead, DHS has announced its intent to increase both enforcement and community outreach. Their goal is to increase employer involvement in E-Verify and IMAGE and a surge in audits of Form I-9 by CIS has already begun, with 652 Notices of Inspection sent this summer (more than ICE issued in the prior fiscal year). If you have not done so already, self-review your Form I-9s and seek counsel, if you're not sure of the proper method to address any shortcomings you find.
6. **Ditto for EFCA (for now)** - Senate Majority Leader Harry Reid announced that the oddly-named Employee Free Choice Act is unlikely to be considered in 2009 as the Senate's calendar for this year is too full. Awwwww.
7. **Return of ENDA** - The 2009 version of the Employment Non-Discrimination Act" has been filed in Congress (S. 1584 & H.R. 2981). Similar to prior versions, the bill prohibits employment discrimination based on sexual orientation (defined as homosexuality, heterosexuality or bisexuality) and gender identity (defined as the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth). Employers should know that the bill allows them to uniformly enforce dress and grooming standards so long as employees who provide notice are allowed to adhere to the gender they are transitioning from/to during that process. And it's OK to deny access to common shower or dressing rooms where being nude is unavoidable, so long as the employer provides reasonable access to adequate facilities. You can always read full text of bills and check the status at <http://thomas.loc.gov> by inserting the bill name or number.
8. **Virtual Law Library** - Federal and state agencies continuously provide employer guidance via their websites. Three new offerings are:
 1. Revised section of EEOC's Compliance Manual to reflect changes in the filing period for compensation discrimination, following enactment of the Lilly Ledbetter Fair Pay Act. Go to www.eeoc.gov/policy/docs/threshold.html#2-IV-C-4
 2. The latest edition of IRS Retirement News for Employers is chock full of useful gems on making hardship distributions, a SARSEP Fix-It Guide, a "mini course" for employees enrolled in 403(b) plans to help them understand how their plan works and more. Go to www.irs.gov/pub/irs-tege/rne_sum09.pdf for the newsletter.
 3. Check out www.txdrivingconcern.org for free traffic safety materials you can distribute to your employees and to request a copy of "Reducing the Risk of Impaired Driving Among Employees & Their Families: A Resource Guide for Employers." And remind them that texting while driving in an active school zone is a no-no in Texas, effective 9-1-09.
9. **You're On Candid Camera** -An employer set up a hidden camera after being informed that someone was using business computers to access pornography after hours. The

camera was set up in an office space frequented by two female employees who were not the subject of the investigation and the women were never actually recorded. When the women found out about the camera they sued for invasion of privacy. The office where the camera was placed had a locking door, blinds on the windows and the women were known to occasionally change clothes in there. The lower court held for the employer but the appeals court reversed and found there was a reasonable expectation of privacy and the installation itself was an intrusion upon their privacy. *Hernandez v. Hillside Children Center* (Cal. Ct. App. 9-14-06). On further appeal, the CA Supreme Court reversed, noting that the employer was a private nonprofit residential facility for neglected and abused children, including victims of sexual abuse, and that the activation of the surveillance was narrowly tailored in time, place and scope in response to a legitimate business concern. The Court emphasized that it was not encouraging employers to use hidden video cameras at work and an employer with a less compelling reason may not have had the same outcome. Be sure to consult with your legal counsel before you begin spy games in the workplace.

10. **Are You Secure?** - Since a data center in Sacramento CA was hacked into in April 2002 and CA created the first "notice of breach" data security law, other states have said "Me too!" and enacted similar legislation. With the addition of AK and SC as of 7-1-09 and MO on 7-9-09, there are 45 states (plus DC, Puerto Rico and U.S. Virgin Islands) with such laws and only AL, KY, MS, NM and SD have yet to follow suit. Generally, if your organization has unencrypted personal information ("PI") in paper or electronic form and that data is accessed by nonauthorized personnel, you may have a fixed amount of time to notify the individuals whose info has been breached and, in some states, you're required to rat yourself out to the state Attorney General or other enforcement entity. If this is news to you, get on top of it quickly by first learning the applicable law of every state in which the individuals whose PI you hold reside, not just the law of the state(s) where you have operations. Someday, there may be a unifying federal approach which will make this exercise much easier (see S. 1490, introduced on 7-22-09), but for now, get smart!

Until next time,
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