

Time to Have Fun with Your Fellow HR Buddies!

In lieu of our December meeting, a fun social will be held, to allow everyone to unwind from their daily HR grind. What could be more fun than hanging out with your HR buddies?

When: December 12th, 2006

Time: 4:30-6:30 pm

Where: PO Pears

Food: Absolutely! There will be a cash bar, and plenty of food, as long as you remember to RSVP!

Please RSVP by December 8th if you will be attending this fun time. We need to order the food, and will only know the quantity needed if you get back to us! Members can register for this by calling LHRMA's automated voice mail system at 434-6554, or by emailing lhrma0048@yahoo.com. Please remember the December 8th deadline!!

AND BEST OF ALL – THERE IS NO MEETING CHARGE!! THE FOOD IS FREE!!

At this time of year, there are always other people in need. We would like to have a significant donation to the Food Bank, so please bring your non-perishable items to the social, to help others have a warm and wonderful holiday season.

REGISTER TO ATTEND THE JANUARY MEETING BY: NOON ON FRIDAY, JANUARY 5TH, 2007

Members that receive e-mail notification of upcoming meetings and workshops can now register by replying to the notice. When replying, put "Registration" in the subject line. The body of the message needs to include the name of the person registering. If more than one person from an organization is attending the meeting, the e-mail can include multiple registrant names. Be sure to indicate if someone is a guest.

For those members that do not receive e-mail notification of upcoming

meetings, you can also register via e-mail by sending a message to: lhrma0048@yahoo.com.

Members can still register for meetings by calling LHRMA's automated voice mail system at 434-6554.

The same registration deadlines, late and no-show fees still apply if you register by e-mail or voice mail. The deadline to register for this meeting or to cancel your registration is by noon on Friday, Jan. 5 2007. Let us know if you plan to attend.

Remember... cancellations need to be called in to the voice mail system at 434-6554 or by email at lhrma0048@yahoo.com by noon on Friday, Jan. 5, 2007. *Remember...* if you registered but do not attend the meeting, you will be charged an extra \$5.00 in addition to the cost of the meeting! Accommodating for late registrations cause a big problem for the restaurant in terms of providing enough food and seating space for late registrants. ***Please try your hardest to register by the noon deadline.***

President's Message

Cindy Mefford, President



We already recognized our volunteers within LHRMA at the November meeting, but I would also like to extend a thank you to our volunteers at the state level. LHRMA members serving on the Nebraska State Council for 2006 include: Ruth Jones, State Director; Tina Adams, Secretary/Treasurer; Jane Goertzen, Immediate Past State Council Director; Darci Spence, Certification Director; Michele Spadt, District Director - East; Nancy Conway, District Director - West; Marsha Dreesen, Global/International Director; Kenda Fink, State Conference Director; Chris Gantz, Workforce Readiness Director; and Mike Reynolds, SHRM Foundation Director. These individuals contribute much more than their time to the Council on our behalf and I am grateful for the support of this system for LHRMA. We are fortunate to have so many working on our behalf and we thank you!

In addition to the State Council volunteers we had a few LHRMA members working with Kenda Fink on the State Conference Committee. These individuals include: Angie Smathers, Exhibitor Chair; Cathy Maddox, Programs Chair; Kari Andersen, Volunteers Chair; and Judy Fischer, Registration Chair. We have much to thank these individuals for because without their collective efforts, the event would not take place plus we would not receive the financial support this conference provides our chapter each year.

I would like to thank the 2006 LHRMA Board: Michele, Carmen, Russ, Cathy, Kari, Mike, Joyce, and Elly; our three appointed representatives Kent, Russ and Ruth; and our administrative assistant Veda. What a fun group to work with! I am grateful for all your hard work and dedication to each of

your positions even though I know all of you had extremely busy years with your real jobs. Thank you for all of your contributions!

Finally, I would like to thank each of you for giving me the opportunity to serve as LHRMA President this year. When I joined the organization about nine years ago I was new to the HR field and eager to network and meet several HR professionals. I also remember thinking that I would NEVER want to hold the position of President because you have to get up in front of everyone and speak! Well, that's the second time I said "never". (The first time was when I said I would NEVER go through Officer Candidate School and become an officer in the military. I retired in 2004 as a Captain). Lesson learned: "never say never". But this has been a very good experience for me and I'm glad I had the opportunity to serve all of you in some small way.

My advice to all of you for 2007? (Besides not saying "never"?) Volunteer on one of our numerous committees. It's a great way to really get to know each other and build relationships. It's also a good way to become a Board member if that is your goal. I also want to offer my best wishes to the 2007 Board of Directors! Carmen will do well in leading you.

December will be our last gathering for this year and we're trying something new with our social. We hope you will use this opportunity to relax among peers and enjoy yourself. The hors d'oeuvres are free (our Christmas gift to you) but don't forget to RSVP so that we can plan for enough food. Hope to see you at the meeting!

Cindy Mefford
Cindy Mefford

HR TIP Independent Contractor or Employee?

Earlier this year, the IRS quietly revised its tests for determining worker tax status. The so-called 20-Factor Test was reduced into 11 tests in three categories: Behavioral Control, Financial Control, and Type of Relationship. Review the new IRS tests to ensure that your processes for determining independent contractor status conform to the new tests.

HRESOURCEARTICLES

WE WELCOME YOUR ARTICLES.

IF YOU HAVE SOMETHING THAT IS NEWSWORTHY FOR OUR NEWSLETTER PLEASE SUBMIT A REQUEST TO PUBLISH YOUR INFORMATION.

YOU CAN DO THIS BY SENDING IT E-MAIL TO THE SECRETARY/PUBLICITY CHAIR, CATHY MADDOX AT: CMADDOX@HAMPTON1.COM



BOARD MEETING RECAP:

- Discussed changing criteria for the scholarship as requested by Wesleyan University.
- Hoping to continue the WorldatWork workshops, and discussed how to do this.
- Have programs lined up for the next three months. Darn that Program Committee is good!

LEGAL UPDATE

VACATION PAY DECISION REVERSED

by Jack L. Shultz, HARDING, SHULTZ & DOWNS • Lincoln, Nebraska

The Court of Appeals

Earlier this year, in the case of *Roseland v. Strategic Staff Management*, 14 Neb. App. 434, 708 N.W.2d 841 (2006), the Nebraska Court of Appeals addressed the issue of whether an employer must pay accrued vacation to an employee upon resignation or termination. The Court of Appeals ruled in favor of the employer relying on the employer's handbook language which stated, "Upon termination, employees will not be paid for unused vacation time." The employees appealed the decision to the Nebraska Supreme Court.

The Supreme Court

The Nebraska Supreme Court rendered its decision in *Roseland* on October 20, 2006, reversing the Court of Appeals decision. The Supreme Court found that accrued vacation pay, which is part of an employment agreement (by company policy), is due and payable as wages upon termination of employment. The Court held that under the Nebraska Wage Payment and Collection Act, wages include fringe benefits. Fringe benefits under NEB. REV. STAT. § 48-1229(3) includes sick leave and vacation leave plans. The Supreme Court found the employer's policy conflicted with the Wage Payment and Collection Act and was void and unenforceable. The Supreme Court decision reversing the Court of Appeals held the employer would have to pay the employees the accrued vacation.

The What Ifs

While the Supreme Court decision makes it clear that an employer's policy cannot take precedence over the Wage Payment and Collection Act, the decision raises a number of other questions that might be impacted depending upon the employer's policies.

A. Notice

What if an employer has a policy that requires an employee voluntarily leaving employment to give two week's notice in order to receive accrued vacation? At first glance it would appear such a policy would conflict with the Wage Payment and Collection Act. However, one of the provisions of the Wage Payment and Collection Act states at NEB. REV. STAT. § 48-1229(4), "wages means compensation for labor or services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission or other basis." If the employee has not met the previously agreed to conditions stipulated (i.e., giving notice), then is the employer required to pay the accrued vacation? It is unclear, but it appears a strong argument could be made that the employee has failed to meet the conditions upon which the vacation was to be paid.

B. Use It or Lose It Policies

Many employers have policies requiring that accrued vacation must be used or it is forfeited. Are such policies now void and unenforceable? The *Roseland* case only addressed payment of accrued vacation at separation from employment. The same argument, as raised above, could be made as to whether previously agreed to and stipulated conditions had been met. In other words, the employee would only be entitled, while employed, to use vacation or lose it. If the

employee fails to meet the agreed upon terms of using the vacation, it would appear no payment of accrued but unused vacation would be necessary, other than at separation from employment.

C. Accrued but Restricted Use

Many employers have policies that allow new employees to accrue vacation from the date of hire, but do not allow the employee to use the vacation time until the employee has been employed for 60 or 90 days. What if the employee leaves employment before the 60th or 90th day but has accrued vacation leave since the date of hire? It would seem ludicrous that an employee who was no longer employed would have greater vacation leave entitlement than if the employee were still working for the employer. Again, the language of the Wage Payment and Collection Act would appear to provide protection to the employer in that the failure of the employee to meet the previously agreed to stipulated conditions (i.e., employment for 60 or 90 days) would not trigger the employer's obligation to pay the accrued vacation even at separation from employment.

Continued on Page 7.

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LHRMA CHAPTER #0048 ACCOMPLISHMENTS IN 2006

New LHRMA Members

**Angela Skrivan,
HR Manager**

Cabela's World's Formost Bank
Askrivan9@gmail.com

**Melissa Rogers,
Human Resource Coordinator**
Friendship Home
melissar@friendshiphome.org

**Michael Wolfe,
HR Manager**
Nestle Purina Pet Care
Michael.wolfe@purina.nestle.com

**Rowena Valentine,
EEO/Diversity Administrator**
Woodmen of the World
ryvalentine@woodmen.com

**Paula Hall,
HR Operations Officer**
First State Bank
phall@1fsb.com

**Aaron Anderson,
Safety/HR Director**
Ayars & Ayars, Inc.
aanderson@ayarsayars.com

**Cindy Thrash,
Executive Administrative Assistant/HR**
Ayers Kahler/Artisan Creed
cindy@artisancreed.com

*Welcome — you have joined an
outstanding organization!*

- New design for our website www.lincolnhlr.org
- Added ability to pay on-line
- Added ability to submit member applications on-line
- Revised/updated job descriptions for Board members
- Revised/updated LHRMA by-laws
- Supported community by participating in LAP's Backpack Program, Toys for Tots & the Community Food Bank.
- Participated in UNL, Doane & Wesleyan's Back to School Fairs
- Increased our donation to the SHRM Foundation to \$1,000 (Russ is this accurate?)
- Added a December social for informal networking
- Held two workshops in addition to the monthly meetings
- Some LHRMA members visited with legislators about HR related bills.
- Began allowing any Nebraska HR association member to post jobs on LHRMA website for free; non-members allowed to post for a small fee



ATTENDANCE DRAWING WINNER

Who Says There's No Such Thing as a Free Lunch? Congratulations to Julie Spader, Director of HR & Administration with Back to the Bible. Julie will receive free registration at the January, 2007 meeting!



PEOPLE JUST TELL ME STUFF...

By Kevin J. Mattran • Continuum EAP

While ago Continuum was taking part in one of our client company's wellness fairs. As I stood at our booth, handing out information and talking about our services, I noticed that people were telling me things. People were telling me things that I had no business hearing. I made sure my name tag identifying me as the organizational trainer was visible, but they kept talking about marital problems, depression, difficult kids and empty nests. For those of us in service related positions this is fairly commonplace. We communicate well and are able to put people at ease and build trust. For human resources professionals this is great news-it could also be a big problem.

Employees will sometimes look to confide in you about things that are happening at work. Many times, these are issues where you are required to take action. In a recent correspondence in a national online forum of HR professionals, someone told of an employee who came to her, prefacing her story with, "You aren't going to believe this and please don't tell anybody...I don't want to get anybody in trouble."

The story the employee proceeded to tell was of a male employee who had used his cellular camera phone to take inappropriate pictures of himself and had shown them to several female employees. The employee telling the story was very disturbed by the graphic nature of the pictures but again said that she was just "venting" and didn't want the person to get into any trouble. The HR person investigated the incident and took appropriate action. As one would expect, the reporting employee feel as if a trust had been violated because the HR person took action on the story that was told "in confidence." It can be a difficult situation, but one that can be prevented.

Remind employees, before they tell you that confidential story, that as an official of the organization you are obligated to take appropriate action in cases of safety, security and harassment.

There is another type of situation where an HR professional walks a fine line. Perhaps there is a performance or productivity issue with a particular employee. You may have been privy to stories ranging from drug abuse to depression regarding that person's declining performance. You may, along with that person's supervisor, decide to make an EAP referral. No matter what you have heard about an employee's personal life, it is important to remember, EAP referrals are to be made based on workplace performance issues only. Use documentation relating to job performance when you make the referral. For instance:

"John, over the last several weeks you have missed three crucial report deadlines, have miscalculated 11 customer invoices, and four customers have registered complaints about you being rude over the phone. Your work here in the past has been excellent and we would like you to talk to somebody at EAP. They might be able to help you find a way to get back on track."

Being a human resources professional is difficult at times because you care about people and want the best for them. You must balance the human side of the job with the rules, regulations and compliance side. Some situations will be more difficult than others. Rely on your EAP consultant to help you with the best approach in those difficult situations.

Kevin Mattran is the Organizational Training and Education Specialist for Continuum EAP. For more information on this and other workplace issues, call us at (402) 476-0186 or email at consultant@4continuum.com

HELP ACHIEVE THE SUPERIOR MERIT AWARD

You can help achieve the LHRMA Chapter Superior Merit Award by notifying Elly Hardekopf, Workforce Readiness Chair, with any dates that you provide service to local schools or adults in regards to: career days, mock interviews, speaking on the HR profession, provide internships to students to gain HR knowledge, etc.. The following information would be needed: name, date of event, location/school name, hours spent or duration of program. Email your information to elly.hardekopf@molex.com throughout the year. We are getting close to the end of the year, and all volunteer efforts need to be recorded in order to qualify for the award.

JOBS, JOBS & MORE JOBS!

DO YOU HAVE ONE TO ADVERTISE OR ARE YOU LOOKING FOR ONE?

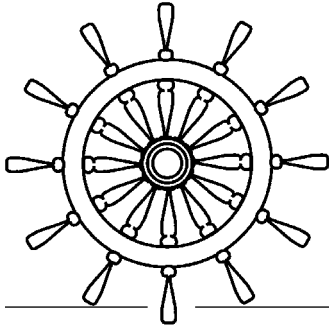
CHECK OUT OUR WEBSITE:
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IF YOU ARE AN EMPLOYER WHO HAS A LHRMA MEMBER EMPLOYEE, THEN YOU CAN POST YOUR HUMAN RESOURCE JOB OPENING ON OUR WEBSITE BY CONTACTING VEDA ARMSTRONG AT: FSHRLNCNE@AOL.COM OR CALL **402.441.7949**

IF YOU ARE LOOKING FOR A HUMAN RESOURCE JOB THEN YOU CAN CHECK OUT OUR WEBSITE:

www.lincolnhir.org

THIS WILL BE AN EXCELLENT RESOURCE FOR STUDENTS WHO ARE SEEKING AN HR POSITION. IT IS ALSO AN EXCELLENT FORUM FOR COMPANIES TO ADVERTISE IF THEY HAVE SUMMER INTERNSHIPS AVAILABLE. PLEASE TAKE ADVANTAGE OF THIS GREAT RESOURCE!



DIVERSITY HUB

REFLECTIONS ON THE SHRM DIVERSITY CONFERENCE

By Joyce Welsch, J.D., SPHR • LHRMA Diversity Chair

I was fortunate to be able to attend the October SHRM Diversity Workplace conference in Los Angeles and would like to share some of my reflections with the LHRMA membership. Although I was frustrated with a number of the consultant-presenters, who gave only enough information for the attendees to nibble on, but not enough to fully digest (we could get the “whole scoop” if our companies contracted with them), I nevertheless learned a lot and came away with observations about some common themes running throughout the conference.

Top of my list of goals was to find some pithy tips on how to recruit diversity. My hopes were dashed again! The same “ideas” were tossed about, such as: advertise in publications with diverse readership, use word-of-mouth with existing diverse employees, send job notices to diverse professional organizations, etc. etc. Plus one suggestion that many of us do not have as an option: use big bucks and great benefits to lure diverse candidates away from other employers. One thing that was not addressed, in large part because many of the conference attendees were from more diverse parts of the country, was how to entice diverse people to move to a relatively non-diverse area with lousy weather and no mountains or water to speak of! The struggle to find the secret to successful diversity recruiting continues!

One thing I expected to see, and did, was the usual pooh-poohing of equal opportunity as an approach to workplace diversity. For most people who work in this field, EO isn't enough—it is barely doing anything. I have always been on the other side

of popular opinion when it comes to this issue. TRUE equal opportunity is enough if you commit to it fully. That's what “affirmative action” is—taking affirmative steps to assure you are providing equal opportunity. By truly assuring equal opportunity you are *valuing* diversity, another trendy catch-phrase. By truly assuring equal opportunity you are *integrating diversity* into your organization. It is easy, especially when you are at a conference with hundreds of diversity professionals, to get caught up in the “diversity initiative” mentality, where the degree of credit you get for being a “fair” and “good” employer increases commensurate with the more money you spend, the more time you spend, the more hubbub about some nebulous initiative you muster. It seems to me that less attention is paid to your organization's true values and the *results* of your efforts in your workplace culture than how much noise you can make about it.

Alright, but beyond my usual quibbles, there were topics at the October Conference that were quite interesting and helpful. For example, the focus on how to initiate a diversity program by working with your detractors, rather than ignoring them. Patricia Perez, Esq., SPHR, of Puente International Consulting, reminded us that you can help bring opponents of a diversity program into the fold by equating diversity with fairness, not favoritism, which should include emphasis on making sure a plan is *actually* fair AND that you are promoting the *perception* of fairness. This helps counter the “us” versus “them” mentality that is becoming more prevalent in society and at work.

Another helpful topic featured in a number of presentations was a (basic) “how-to” for analyzing where EO problems exist, which is a necessary step in determining how to mold your program. It is easy to say, “We've got a culture-problem when it comes to diversity,” but it is more difficult to identify the specific areas where you must assess your culture. In her presentation, Leslie Aguilar, of International Training and Development, described twelve areas an organization must examine to have a successful diversity program, including: access and representation, retention and utilization, compliance, management skill level, communication, behaviors, language issues, customer services, and supplier and community relations. After analyzing each area, an organization then pinpoints which areas are lacking, and tackles first those that have the most strategic importance.

A final example of helpful conference material, was in a presentation about retention. Janice Fenn and Chandra Irvin, of IGIAPROi Productions (that is not a misprint!), spoke regarding certain “valuing” behaviors that establish the foundation upon which organizations can build to attract and keep the brightest and best persons of color. In describing the importance of the concept of valuing diverse employees they emphasized, “Valuing is not an initiative. Valuing is not a strategy. Valuing is a behavior . . . that involves respect, appreciation for talents and skills, appreciation for contributions, commitment to success, and a sense of realism.” It was so refreshing to hear someone distill the HR lingo down to

See Diversity Hub on Page 7.

LEGAL UPDATE

Continued From Page 3.

D. Carryover Caps

Many employers have policies which restrict the amount of vacation time an employee might carry over from one year to the next. Does the *Roseland* case direct employers to pay for accrued vacation which cannot be carried over? Again, it would not appear that the caps on vacation carryover would be contrary to the Wage Payment and Collection Act, except at the time of separation. Employers may want to consider amending their vacation policy so as not to limit the amount of vacation leave which may be carried over but instead to limit the total vacation time which may be accrued. For example, rather than have a policy that says employees who accrue 80 hours of vacation annually but may only carry over 40 hours from one year to the next, or accrue a maximum of 100 hours, could change the policy and limit the accrual. The policy would state that once an employee has accrued 100 hours of vacation leave, no further vacation will be accrued until the employee's vacation accrual falls below the accrual cap. This policy would encourage employees to use their vacation annually.

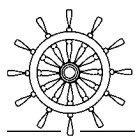
E. Sick Pay

The Supreme Court decision in *Roseland* did not directly address

sick pay. However, the Court went out of its way to identify sick leave as a fringe benefit just like vacation pay. An argument could be made that the same principles apply to both vacation pay and sick leave. The wording of an employer's sick leave policy may be decisive. For example, does sick leave accrue only when the employee is sick and uses the benefit, thereby meeting the previously agreed to conditions stipulated? The "previously agreed to stipulated condition" argument could not be made if employees are allowed to use sick leave without restrictions, making it similar to vacation pay. Employers with leave plans characterized as paid time off (PTO) likewise would have a difficult time distinguishing vacation leave from sick leave.

F. Certainties

Unfortunately, it appears the *Roseland* case has raised more questions than it provided answers. Two things are clear. An employer cannot have a blanket policy that says upon termination, employees will not be paid for unused vacation time. Second, every employer should review its vacation policies with their legal counsel to determine what, if any, impact *Roseland* may have on its practices and what, if any, policy revisions are appropriate.



DIVERSITY HUB

Continued From Page 6

its essence. In this case, they were describing the importance of treating *everyone* fairly and well. Hmm, sounds a lot like equal opportunity to me.

Okay, so here I am, reemphasizing my own philosophy about diversity management. And I guess that is what it largely comes down to in evaluating one's experience at a conference or

seminar—what speaks to you. There was plenty at this conference that spoke to me, and a large enough range of philosophies and approaches so anyone in attendance could find something that spoke to him or her. Perhaps more importantly, there were lots of different ideas to chew on (even if the consultant-speakers were a little stingy with portion size!).

LHRMA MEMBER CHANGES

Check and verify your name and address on this month's LHResource for accuracy. Please contact Veda Armstrong our LHRMA Administrative Assistant, for any of your personal job and address changes. Please either email your changes to Veda at fsrlncne@aol.com or by telephone at 402.441-7949.

REMINDER

As you are filling out your calendars for 2007, be sure and set aside the 2nd Tuesday of each month for our meeting. To let you know what is coming up, here are the programs for the first quarter:

January 9, 2007

Mick Occhiuto
Sharpening the Sword...
it's 2007 in HR

February 13, 2007

Mark Fahleson
Valentine's Day and HR

March 2007

Duad Meeting with ASTD



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LHRMA RESOURCE

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SOCIETY FOR
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SHRM LOCAL CHAPTER 0048

PLEASE CALL VEDA ARMSTRONG AT 402-441-7949,
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OR ADDRESS OR SEND HER AN E-MAIL AT:
FSHRLNCNE@AOL.COM