



Lincoln
Human
Resource
Management
Association



PO Box 81066, Lincoln, NE 68501-1066
www.lincolnhrr.org



Volume 6, Issue 3

March, 2015

PROGRAM: Employee Lawyer vs. Management Attorney: Case Law Update
Presented by attorneys Chris Hedican and Kathleen Neary.

WHEN:

Tuesday, March 10th, 2015
11:00 – 11:30 Registration
11:30 – 12:00 Lunch & Announcements
12:00 – 1:00 Keynote Session

The HR Certification Institute has
Pre-Approved this event for
1 Credit Hour: HR (General)

SHRM Pre-Approval is pending.

WHERE:

Country Inn & Suites
5353 N 27th Street, Lincoln, NE
Parking is FREE!

COST:

Program Registration Fee: LHRMA members—\$15 [Click here to Register](#)
All Other Attendees—\$25
College Student Chapter Members—FREE (You must register with Jenessa Keiser,
College Relations Chair)

MENU: Mexican Buffet, dessert and beverages.

DEADLINE: Register/cancel your registration by **12:00 noon, Friday, March 6th.**

REMINDER: There is a \$10 fee for late registrations and for no-shows. This \$10 fee is in addition to the regular registration fee. Please try your hardest to register on time, as late registrations and no-shows make it difficult on everyone involved.

About Our Program:

From the federal to state courts, the judiciary continued to issue legal rulings that affect the rights of employers and employees alike. Plaintiff's employment attorney Kathleen Neary and management attorney Chris Hedican discuss their views of the significance of these cases for their clients while they attempt to convince each other that they are wrong. Our speakers also will discuss their respective views on pending legislation and the impact on the rights of management and employees.

About our Speakers:

Christopher R. Hedican's practice focuses on employee benefits and litigation, defending all types of employment claims, including discrimination, wrongful termination, retaliation, employment torts and public policy claims. A substantial part of his practice includes non-compete, business tort, trade secret, and fiduciary litigation. He also regularly handles litigation involving self-funded ERISA benefit plans,

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fully insured benefit plans and third party administrators. Such claims involve equitable subrogation and benefit denial. He regularly defends cases in state and federal courts for firm clients throughout the country, but particularly in the Midwest. Chris graduated from Washington University in St. Louis School of Law in 1990. He was conferred a Master's of Business Administration from the John M. Olin Graduate School of Business of Washington University in St. Louis in 1990. He also received a Bachelor of Science degree, *cum laude*, from Creighton University in 1986. Since 2003, Chris has been selected by his peers for inclusion in *The Best Lawyers in America*® in the fields of Employment Law and Labor Law. He has also been named in *Chambers USA* (© 2013) since 2001. He is listed in *Super Lawyers* (© 2013) - Top Ten in Nebraska since 2010, and is "AV" rated by Martindale-Hubbell.

[Click here for Mr. Hedican's full bio.](#)

Kathleen Neary Employment

Vincent M. Powers & Associates
Lincoln, NE, 1998 - present

Attorney, Neary Law Office
1996-1997

Associate Judge, Omaha Tribal Court
Omaha Tribe of Nebraska, 1993-1996

Judicial Clerk to the Honorable Niesje J. Steinkruger,
District Judge, State of Alaska, 1992-1993

Specializes In:

Employment and Housing Litigation for Plaintiffs (65%)

Represents employees and tenants in discrimination, harassment and retaliation cases as well as Whistleblower, 1st Amendment and wage and hour litigation.

Personal Injury-Plaintiff (35%)

[Click here for Ms. Neary's full bio.](#)



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President's Message

Melissa Price, LHRMA President



By now you should have heard a lot about the new SHRM Certification available starting January 2015. You have probably received emails and mail communication from SHRM, heard Nancy Conway from SHRM discuss the new certification at our January luncheon, and heard announcements being made by your LHRMA Certification Director, Amy Spellman. As another resource I wanted to try and summarize where you can find information to learn more about earning your SHRM Certifications: SHRM-CP and SHRM-SCP.

Definitely visit SHRM's website dedicated to certification - <http://www.shrm.org/certification>. The website includes the following resources:

- SHRM's Certification Handbook
- Body of Competencies & Knowledge (BoCK)
- Information about obtaining your SHRM-CP and SHRM-SCP if you have your PHR or SPHR
- Eligibility, application windows, and exam fees
- Recertification requirements and process information
- And more

Please continue to look to LHRMA for the following resources regarding certification:

- Certification Study Groups to assist you in preparing for the SHRM Certification exam
- Speakers and programs to give you recertification credits
- Assistance in going through the SHRM certification process if currently certified
- Answers to certification questions that you might have

If you are currently certified with your PHR or SPHR, make sure to obtain your SHRM Certification. Remember that there is no cost to obtain it if already certified and it will continue to help you demonstrate your expertise in our profession.

Please reach out to Amy Spellman, LHRMA's Certification Director, or any board member for questions regarding certification. You will continue to hear us discuss and promote the new SHRM certification opportunities.

"If you are not willing to learn, no one can help you. If you are determined to learn, no one can stop you."

— Melissa Price

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Legal Update

Patient Protection and Affordable Care Act

a/k/a Obamacare: The Only Thing Constant is Change

by Jack L. Shultz and Wesley A. Goranson, HARDING & SHULTZ, P.C., L.L.O.

Just as employers begin to feel relatively comfortable with the new requirements imposed by the Patient Protection and Affordable Care Act (the “ACA” or “Obamacare”), recent data and events suggest that the law is anything but settled. The Galen Institute recently conducted a study which found approximately 46 material changes have been made to the ACA to date. All three branches of the federal government have added to or modified the ACA. 28 of those changes were made unilaterally by President Obama through executive action, Congress has made 16 changes, and the Supreme Court has also chimed in on the ACA’s individual mandate and Medicare expansion. Recent market data and legislative events suggest that the more change is likely, and the mandates and definitions found in the ACA are a moving target.

CONGRESSIONAL ACTION

On January 8, 2015 the House of Representatives approved a bill which would redefine the definition of full-time employment under the ACA. Currently, employees are considered to be full-time if they work 30 hours per week. The House bill attempts to reintegrate the traditional 40 hour work week, a staple of the middle-class for many years, into the ACA. A previous version of the bill passed the House in 2014, but could not get through the Senate. The Senate version of the bill was introduced one day prior to the bill’s passage in the House, on January 7. Republicans are hopeful that the outcome will be different this time around as they control both houses of Congress, but Senate Democrats have already voiced their opposition to the bill. Additionally, President Obama has stated that if the bill arrives on his desk, it will be vetoed.

CHANGES IN THE MARKET

Recent data suggests that large employers are requiring their employees to shoulder a greater percentage of employee health care costs. Large employers are aware of the impending tax on “Cadillac” health plans and are making efforts to reduce health plan costs so that they are not susceptible to the tax. The “Cadillac” tax, or reinsurance fee, is currently set to take effect in 2018. In late 2013, President Obama announced that unions would be exempted from the reinsurance fee. The Obama administration did not follow through with that announcement, however, but it did delay the effective date of the tax until 2018 to give unions time to reduce the cost of their lavish health plans. The ACA might result in large employers thanking labor unions with respect to a political issue.

The purpose of the “Cadillac” tax was to slow down the nation’s growing health care costs but, it has had the unintended effect of greater out-of-pocket costs for employees of large employers. As it stands now, large employers who spend more than \$27,500 for family plans or \$10,200 for individual plans in 2018 will be required to pay a 40% tax on dollars in excess of the limits.

A study conducted by the Kaiser Family Foundation found that among employers who employ 200 or more workers, 51% had employees who were responsible for paying 25% or more of their premiums for family coverage. The percentage of employers requiring employees to pay a greater percentage has been gradually increasing since 2011, when only 42% of employers fit that category. Although the costs of large health plans is growing at a slower pace, the means to achieve that result has been an increase in costs for the individual employees.

(Continued on page 6)

Employers are finding many different ways to lower their costs. Data suggests that the number of employers who only offer a high deductible plan to employees will increase by 50% in 2015. For example, George Washington University has eliminated certain plans in favor of a high deductible plan to lower costs. Employees are unhappy with the change as the plan not only increases their out-of-pocket costs but also results in fewer health care expenses being covered by insurance. Other employers, such as JP Morgan, have expanded their wellness programs. Employees who choose not to participate in the JP Morgan wellness program will pay more for their insurance premiums.

CONCLUSION

The Greek philosopher Heraclitus once famously quoted, “The only thing constant is change.” That quote rings true as we move into 2015. President Obama has expressed through his words and actions that he will not hesitate to bypass Congress so that changes may be made to the ACA. Congress, however, now has the means to push back. Both the Senate and House are now controlled by Republicans for the first time in President Obama’s tenure. So what does the current political climate mean for employers? The answer is simple: the mandates, definitions, and rules found in the ACA are still a moving target. Employers have the impossible task of preparing themselves as if the law will not change while ensuring the company is flexible enough to adapt when sure-to-be made changes are made. Stay tuned.

Editor’s Note: This article is not intended to provide legal advice to our readers. Rather, this article is intended to alert our readers to new and developing issues and to provide some common sense answers to complex legal questions. Readers are urged to consult their own legal counsel or the author of this article if the reader wishes to obtain a specific legal opinion regarding how these legal standards may apply to their particular circumstances. The authors of this article, Jack L. Shultz and Wesley A. Goranson, can be contacted at 402/434-3000, or at Harding & Shultz, P.C., L.L.O., P.O. Box 82028, Lincoln, NE 68501-2028, jshultz@hslegalfirm.com or wgoranson@hslegalfirm.com.

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Hero2Hired Job Fair at Lancaster Event Center on April 1st

Hiring a veteran is a smart thing to do because they have years of some of the best training and possess extraordinary skills. They show up early, leave late, know how to work in teams, manage people and materials and are adaptable to ever-changing environments under demanding pressures. If you have a position to fill, please come to the Hero2Hired Job Fair and hire a veteran. They have given us so much.



**Hiring Fair for National Guard and Reserve Members
Veterans, Transitioning Service Members
Military Spouses and Dependents**

Lancaster Event Center

4100 North 84th St

Lincoln, NE 68507

April 1, 2015

Employment Workshop: 8:30 am – 9:30 am

Hiring Fair: 10:00 am – 2:00 pm

[Employers and Job Seekers Click Here to Register On-Line](#)

EAP Corner

The Myths of Counseling

Jessica Compton-Crocker, Counselor & Consultant
Continuum EAP



Working in Human Resources, you encounter employees who are struggling at work, at home, or both. Reminding them of counseling services offered by your company's EAP can sometimes lead to questions. Here are some of the most common questions and myths about counseling to guide you.

Counseling is for people who are “crazy” or have a serious mental illness.

False. Part of being human and journeying through life is encountering hurdles and road blocks. All of us get stuck. Sometimes we get stuck in old habits and sometimes we get stuck in our attempts at creating new habits. Meeting with a counselor gives you the opportunity to work with someone who can listen to your situation objectively; with an unbiased perspective. Working with a counselor can help you to change your thinking patterns, discover other options, and give you the necessary tools to make positive changes in your life.

Only weak people who lack coping skills seek counseling.

False. The short-term counseling services offered by your EAP provide helpful ways to deal with stress, anxiety, work-life balance, relationship issues, and much more. Many individuals use counseling to better themselves personally and professionally. Utilizing your EAP services is a sign of resourcefulness. Working with a counselor can keep issues from snowballing into something too big by giving you the tools you need to handle situations in your life.

My problems are insignificant compared to those of other people. They deserve it.

Counseling is not only for those with extreme, grave concerns or crisis. Making the choice to come to counseling is acknowledging that something is not working in one's life and wanting a professional perspective. It is not uncommon for a person to be in denial or minimize the problems in their life, but this only causes the problem to get worse for themselves and those around them. Meeting with a counselor can serve as a way to intervene a negative cycle and prevent it from happening again. When it comes to self-judging the gravity of your problems, keep in mind that what is an issue for one person may not be an issue for another. Your concerns are worth being addressed.

Therapists just listen.

False. Therapists are actively engaged with their clients; forming a partnership with them. In this partnership, steps for change are developed. What would you like to be different and how can we work together to get you there. A therapist can help you to see faulty thinking or unhealthy habits, a new perspective or a first step.

Therapy takes years and is expensive. I don't have that kind of time or money.

For the most part, this is false. Some extreme circumstances do call for long-term, ongoing counseling. In most instances, short-term counseling that is provided by your EAP is an effective way to address many concerns and struggles you may face. EAP counseling can help you with communication concerns, relationship issues, developing decision-making skills, address anxiety, parenting concerns, and how to achieve the delicate balance of work and home life. EAP counseling is a benefit offered to you through your employer and is completely free of charge to you and is 100% confidential.

*Don't have EAP services? Continuum EAP has been a leader in helping companies and employees perform at their best for 40 years. For more information, please call **Gail Sutter at (402) 476-0186**, or send an email to gsutter@4continuum.com.*

Wellness

Decreasing Worker's Compensation Costs and Avoiding Surgery

Dr. Randy McCracken

McCracken Chiropractic Clinic

A study, "Early Predictors of Lumbar Spine Surgery after Occupational Back Injury: Results from a Prospective Study of Workers in Washington State noticed the reduced odds of surgery when workers saw a doctor of chiropractic first. It was noted **42.7 %** of the workers who initially visited a surgeon underwent surgery, in contrast to only **1.5%** of those who consulted a chiropractor first.

Back injuries are the most common occupational injury the U.S. and studies continue to show chiropractic is the most appropriate treatment and should be the first option for patients with back pain. This was observed in the study, "Health Maintenance Care in Work-Related Low Back Pain and Its Association with Disability Recurrence." They observed chiropractic care had a lower disability recurrence when compared to treatment by other medical interventions. The chiropractic patients illustrated consistently better outcomes, less use of opioids, and had fewer surgeries, with lower medical costs.

This approach has been adopted by the University of Pittsburg Medical Center Health Plan with chiropractic first, medicine second and surgery last.

Lastly, as noted by Roger Sperry M.D. (Nobel Prize recipient for Brain Research) "90 % of the stimulation and nutrition to the brain is generated by the movement of the spine".

Ask yourself, what did I do today to stimulate and feed my brain if I sat all day? Our body was designed to move not sit! Memory has shown to be increased if you move when trying to learn or remember something.

The number one operating system of the human body is the nervous system which for most part is protected by the skull and 7 neck bones, 12 upper back bones and 5 lower back bones, all of which were designed to be in specific anatomical positions. When was the last time you had your spine checked? You probably brushed your teeth today, what have you done for your spine today?

For more information on these studies contact Dr. Randy McCracken at 402-421-2277 or e-mail: drmcracken@windstream.net. Dr. McCracken is a practicing chiropractor with over 38 years of experience in dealing with the stresses that are placed upon the human body be it mental, physical or chemical.

WELCOME NEW MEMBERS

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If you are looking for a human resource position, then check it out!
Go to <http://lincolnhhr.org/blog/hr-job-openings/>

This is also an excellent resource for students who are seeking an HR position or for companies to advertise if they have summer internships available. Take advantage of this great resource—you can't beat the price!





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