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**LHRMA**  
Lincoln Human Resource Management Association

AFFILIATE OF  
**SHRM**  
SOCIETY FOR HUMAN  
RESOURCE MANAGEMENT

## May Program & Workshop

Program on May 8 Features — **“Employment Law Update”**

Workshop — **“FMLA and ADA”**

Join us for our May Program and Workshop on May 8. Chad Richter, Managing Principal with Jackson Lewis P.C. will present from 12:00—3:15 p.m.

About the Presentation

Employment Law Update

Chad Richter will provide a labor and employment law update including changes at the federal, state and local level. Since the Unicameral has concluded for

the session, Chad will also provide a brief recap of the legislative bills that were signed into law that impact Human Resources, labor and employment law. Chad will also discuss recent trends and best practices in light of recent developments from the courts and Congress.



Workshop Topic:

FMLA and ADA

Chad will also provide a workshop on handling complex disability leave management issues. This will include daunting daily disability leave scenarios with overall best practices and processes to minimize risk. Chad will build into each strategy discussion recent lessons learned from our courts and administrative agencies.

About the Presenter:

Chad Richter is Office Managing Principal of the Omaha, Nebraska, office of Jackson Lewis P.C. and is a member of the firm's Board of Directors.

Mr. Richter's practice is divided into three areas: (1) preventive counseling and training; (2) traditional labor law; and (3) workplace litigation. With regard to Mr. Richter's preventive practice, he routinely provides day-to-day advice and counseling to

management on a variety of employment law matters including human resource management, traditional labor relations, employment discrimination, wage and hour, privacy, disability leave management, and reductions in force. Mr. Richter routinely assists management in workplace audits, preparing contracts and workplace policies, complex employment investigations and developing and presenting training curriculums on numerous employment and labor law topics.

Mr. Richter is a frequent speaker to local and national organizations on a variety of employment and labor related topics. Most recently, Mr. Richter spoke at the annual convention for the Society of Human Resource Management in New Orleans and Washington DC in 2016 and 2017, the client forum for Equifax Workforce Solutions in Scottsdale in 2017 and the Montana Healthcare Association in Helena Montana in 2017.

WHEN AND WHERE

Tuesday, May 8, Program 11:00-1:00 p.m. Workshop from 1:00 –3:15 p.m. at SCC Jack Huck Continuing Education Center, 301 S. 68th Street Place, Lincoln

LUNCH PROGRAM REGISTRATION FEES:

LHRMA members – \$15

All Other Attendees – \$25

College Student Chapter Members—FREE (You must register with Jenessa Keiser, College Relations Chair)

Workshop Registration Fee: All Attendees—\$35

REGISTRATION DEADLINE

Register by Friday, May 4th at noon.

# WELCOME NEW MEMBERS

LHRMA welcomes the following new members:

Stephanie Sheridan  
HR Business Partner  
State of Nebraska Department of  
Health and Human Services  
Stephanie.sheridan@nebraska.gov

Nicole Ramer  
Business Director  
Gramercy Hill  
nramer@capitalseniorliving.net

Kevin Halvorson  
Human Resources Generalist  
State of Nebraska  
Kevin.havlorson@outlook.com

# MEMBERSHIP RENEWAL



## 2018 LHRMA Membership Renewals

If you have not yet renewed your membership for 2018 you still have time. Please be sure to do so right away!





# President's Message

By Lindsay Selig, LHRMA President



On Thursday, April 19<sup>th</sup>, I had the opportunity to represent LHRMA at the Lincoln's Best Places to Work luncheon. What an incredible celebration!

The event was held at Cornhusker Marriott hotel and encompassed a true celebration-like atmosphere including a live band and well-known emcee, Jim Rose.

Head volleyball coach, John Cook, also spoke at the event. Coach Cook discussed the importance of leadership within organization success. He talked about his 2017 national championship volleyball team, who were "underdogs" at the start of the season, having lost several of their starters the year prior. The 5 seniors on the team took it upon themselves to "lead" the team. Before the season even started, they developed the motto "Why not us" – why can't we win a national championship. Well, lead they did all the way through to the national championship game. Talk about good leadership being a key component to success!

In addition to a great speech by Coach Cook, we also got to recognize the success of 15 companies for their great leadership. There are 5 companies named as finalist in the small (10-50 employees), medium (51-125 employees) and large (126+ employees) categories. These companies have worked to create top-notch cultures in their organizations that were shown through anonymous survey results of their OWN employees! So with that being said, I want to recognize these companies (in alpha order) for their leadership, hard work and devotion to their employees.

## Small

Collaborative Industries, Inc.  
Don't Panic Labs  
KidGlov  
Moxie Mitsubishi  
Schemmer Associates

## Medium

Brester Construction, Inc.  
Edward Jones  
Hausmann Construction  
Roper Elementary School  
Zillow Group

## Large

Community Action Partnership of Lancaster and  
Sunders Counties  
Firespring  
National Rural Electric Cooperative Association  
Olsson Associates  
The Lincoln Marriot Cornhusker Hotel

However, this article wouldn't be complete without recognizing Woods and Aitken for the dedication to this event. Woods and Aitken law firm led the way 6 years ago and brought Best Places to Work to Lincoln. It is amazing to watch this program grow year after year and is primarily due to the leadership of this amazing team. So, on behalf of LHRMA, I want to say thank you to Woods and Aitken for their hard work and for letting LHRMA be a part of the success!

## Legal Update

### What to Expect When Your Employee is Expecting

By Jaydon M Pence, Esq., Rembolt Ludtke LLP  
Lincoln, Nebraska

In October 2016, the Equal Employment Opportunity Commission (EEOC) approved an updated Strategic Enforcement Plan for the years 2017 to 2021, to further its commitment to focus on “activities that are likely to have [an] impact in advancing equal opportunity and freedom from discrimination in the workplace.” One area of focus for the EEOC is accommodations for pregnancy-related limitations. In 2018 alone, the EEOC has indicated an increased willingness to tackle pregnancy accommodation cases. As one example, in March 2018, the EEOC brought suit against Simplicity Ground Services, P.C., after Simplicity forced pregnant employees to go on unpaid leave. One such pregnant employee was Raylynn Bishop. According to the EEOC’s lawsuit, Bishop was employed as a tow team driver for Simplicity, a company responsible for transferring baggage on and off commercial flights at Detroit’s Metropolitan Airport. Bishop’s job consisted primarily of driving a vehicle. Her job description did not contain a lifting requirement. The EEOC alleged that upon learning that Bishop was pregnant and had a 20-pound lifting restriction imposed by her doctor, Simplicity informed Bishop that she had to go on unpaid leave. Simplicity also attempted to have Bishop sign an amended job description which added a 70-pound lifting requirement, even though Simplicity routinely accommodated non-pregnant employees with similar lifting restrictions by allowing light duty. Discriminatory conduct, such as this, violates Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act.

Adopted in 1978, the Pregnancy Discrimination Act (PDA) makes it clear that Title VII’s prohibitions on sex-based discrimination include discrimination on the basis of pregnancy, childbirth, and related medical conditions. The PDA requires covered employers (those with 15 or more employees) to treat pregnant workers the same as they treat those who are “similar in ability or inability to work.” Stated differently, when employers accommodate non-pregnant employees who have limitations similar to a pregnant employee they must also accommodate the pregnant employee. For example, in Bishop’s case because Simplicity offered light duty work for non-pregnant employees with lifting restrictions, it had to consider this option for its pregnant employees with pregnancy-related lifting restrictions as well.

In addition to federal protection for pregnant employees, the Nebraska Fair Employment Practice Act (NFEPA), requires reasonable accommodations for pregnant individuals with “known physical limitations” who, with or without reasonable accommodation, can perform the essential functions of the job. An employer has a duty to accommodate pregnant individuals unless the employer can demonstrate that a requested accommodation would “require significant difficulty or expense” thereby imposing an undue hardship. The NFEPA provides that reasonable accommodations,



with respect to pregnancy, childbirth, or related medical conditions, include: acquisition of equipment for sitting, more frequent or longer breaks, periodic rest, assistance with manual labor, job restructuring, light-duty assignments, modified work schedules, temporary transfers to less strenuous or hazardous work, time off to recover from childbirth, or break time and appropriate facilities for breast-feeding or expressing breast milk.

Although pregnancy itself is not a disability, pregnant workers may have impairments related to their pregnancies that qualify as disabilities under the Americans with Disabilities Act (ADA) as well. A number of pregnancy-related impairments, such as pregnancy-related carpal tunnel syndrome, gestational diabetes, pregnancy-related sciatica, and preeclampsia, may qualify as disabilities under the ADA so long as the impairments “substantially limit a major life activity.” An employer has a duty to accommodate workers with pregnancy-related impairments unless doing so would impose an undue hardship.

## Legal Update (continued from page 5)

### Best Practices

To ensure that your organization is complying with its obligations to accommodate pregnancy in the workplace, educate managers and supervisors on responding to pregnancy accommodation requests. The following is a list of tips to remember when dealing with a pregnant employee:

- If a pregnant employee approaches you with a request for an accommodation, engage in the interactive process just as you would with a disabled employee. Document accommodations proposed, the employee's response, and all actions taken to identify a reasonable accommodation. The mere failure to engage in the interactive process can result in liability.
- Reflect on accommodations provided for non-pregnant employees with similar restrictions. Is there a reason why these accommodations would not work for your pregnant employee?

- Do NOT bar a woman from returning from work for a predetermined period after she gives birth.
- Do NOT have a mandatory maternity leave policy.
- Ensure accrual of benefits during leaves of absence for pregnancy-related reasons is the same as accrual of benefits for other medical or disability leaves of absence.

In addition, ensure that job descriptions accurately reflect a job's essential functions. It is possible that Simplicity actually did require employees in Bishop's position to be able to lift 70-pounds, however, because Simplicity sought to amend the description post-facto, it appeared Simplicity was intentionally discriminating.

In 2017, \$15 million in settlements were paid out for pregnancy discrimination charges filed with the EEOC. This figure does not reflect the millions of dollars that likely exchanged hands through

confidential settlements. Pregnancy discrimination, specifically failure to accommodate, is an issue the EEOC is targeting. While pregnant employees are not automatically "disabled" for purposes of the ADA, an employer is obligated to treat any pregnancy-related impairment as it would a disability under the ADA and provide reasonable accommodations when necessary. Failure to do so can result in costly litigation and damage to your organization's reputation.

*Pence is an attorney with the Lincoln-based law firm of Rembolt Ludtke LLP and may be reached at (402) 475-5100 or [jpence@remboltlawfirm.com](mailto:jpence@remboltlawfirm.com). This article is provided for general information purposes only and should not be construed as legal advice. Those requiring legal advice are encouraged to consult with their attorney.*

## Jobs, Jobs and More Jobs!

If you are an employer with an employee that is a current LHRMA member, then you can post your HR-related job opening on our website for **FREE!** Just email [lhurma0048@yahoo.com](mailto:lhurma0048@yahoo.com).

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!

# Preventing Employee Worksite Injury

An accident, by definition is something that happens unintentionally. They can't be avoided 100 percent of the time simply because some things cannot be foreseen. That doesn't mean their likelihood can't be diminished greatly. In fact, in many cases worksite injuries are the direct result of not following safety precautions. According to the National Council for Occupational Safety and Health, there were 4,585 deaths from worksite injuries in 2013 and there are an estimated 50,000 deaths from worksite exposure annually. Those numbers don't even address the workers who sustain injuries, some of which may be serious enough that they can no longer physically work.

When most people think of worksite accidents, they often automatically associate them with high-risk industries, such as construction or manufacturing. The truth is: injuries can occur in any place of employment.

Follow these 7 steps to prevent and protect your worksite:

1. Incorporate a safety and wellness plan. The foundation for a safe work environment is an effective accident prevention and wellness program. The program needs to cover all levels of employee safety and health with encouragement to report hazardous practices or behavior.
2. Conduct pre-employment physicals. Some accidents are caused by inexperience and the inability to physically perform the position. Screening applicants is a safeguard for placement with the appropriate positions matching their physical capabilities.
3. Educate employees and management staff. Continually cultivate a safety standard among employees and management staff. Train employees about the importance of following safety measures as often as possible. Supplemental training in body mechanics can reduce strain injuries, and keep employees safe during lifting and moving.
4. Provide protection equipment. Personal protection equipment is essential and should be enforced at hiring, meetings, and with spontaneous monitoring. Take time to teach employees how to properly use goggles, face protection, gloves, hard hats, safety shoes, and earplugs or ear muffs.
5. Avoid making shortcuts. Accidents happen when employees skip steps to complete a job ahead of schedule. Make sure all instructions are clear and organized to prevent undue mishaps in the workplace.
6. Monitor safety measures. After initial training, reinforce safety measures at every opportunity, i.e. staff meetings, supervision, and education. Reward employees who abide by setting standards or staying injury free for a specified amount of time.
7. Keep an orderly workplace. Poor housekeeping can cause serious health and safety hazards. The layout of the workplace should have adequate foot path markings, be free of debris, and stations for cleaning up spills.

Madonna Fit for Work Occupational Health Specialists can assist you in saving company money, reduce the number of work related injuries and medical claims, boost employee productivity, and employee satisfaction. To schedule an Occupational Health Service call Katy Martin at 402-617-8508 or send an email to [kmartin@madonna.org](mailto:kmartin@madonna.org).

# “Management: The Process of Dealing With or Controlling Things or People”

## PROBLEM:

A busy manager with three direct reports brings in a lot of business, but his ego tends to impair his judgment and gets in the way of how he manages his employees.

## Impact:

This toxic boss is condescending in a way that impairs employee morale and keeps others from driving business results. His behavior really hurts the overall business operation.

## SOLUTION:

The manager needs to be made aware and understand how his behavior impacts business results overall, as well as the potential for the loss of talent because of his actions.

*To improve the process, regular heart-to-heart meetings with the director are a must, while the manager needs to be open to the feedback he gets from his director during these sessions. The meetings need to focus on how the key derailment issues can affect his career going forward.*

*To really be successful, the manager can be given assignments to help modify or change problematic behavior. Oftentimes, managers like these have a low emotional quotient (EQ) and need help becoming more self-aware.*

The manager needs to take the time to focus on change in the behavior.

Coaching can also be used as a tool during these situations. Need more help with your management style and effectiveness? We have a management program that can help:

## MANAGEMENT BOOT CAMP

MAY 15/\$219 PP

## LEADERSHIP IN ACTION

JUNE 7/\$219 PP

## DEALING WITH UNACCEPTABLE EMPLOYEE BEHAVIOR

JULY 19/\$139 PP\*

## THE INFLUENTIAL LEADER SERIES

JULY 11, 18, 25, AUG 1/\$349\*\*

## MANAGEMENT BOOT CAMP

AUG 9/\$219 PP

LOCATION: 9239 W. Center Road, Suite 223,  
Omaha, NE, 9 am – 4 pm

[Current Best Care EAP clients receive a discount on these classes.](#)

To register, call 800 801-4182 or send an email to [EAP@bestcareeap.org](mailto:EAP@bestcareeap.org).

\*HALF-DAY CLASS, 9-12 NOON

\*\*4 WEEK SERIES, CLASS IS 9-11:30 AM



**BEST CARE**  
EMPLOYEE ASSISTANCE PROGRAM





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[www.lincolnhr.org](http://www.lincolnhr.org)

SHRM Local Chapter #0048



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