



BV-SHRM Newsletter

Chapter #0330

June 2011

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Monthly Program & Luncheon

TOPIC: Reference Checking & Employment Verifications

WHEN: Thursday, June 2, 2011

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

WHERE: College Station Conference Center

COST:

\$10 BV-SHRM member with RSVP

\$15 BV-SHRM member without RSVP or non-member guest

SPEAKER: Chris Peterson

ADDRESS: 1300 George Bush Drive
College Station, TX 77840-3175

Inside this Issue:

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Program Details

Program will cover:

- Conducting reference checks including both professional and character references.
- Employment verifications – what can legally be asked, who can you legally call, and what paperwork should a company have in place to follow proper reference check protocol.
- What can or “Should” say as a former employer during a professional reference check.

Speaker Bio

Chris Peterson has over 20 years in the legal profession in the Brazos Valley. He graduated from The University of Texas School of Law in 1989. He began his practice at Meece & Kohn and worked at several area practices throughout his career. He began the Peterson Law Group here in Bryan in 2008. He is a proud member of the Bryan Business Council, Brazos County Bar Association, The Research Valley Partnership, Brazos Young Lawyers, The Bryan-College Station Chamber of Commerce and the Downtown Bryan Economic Development Association. Mr. Peterson specializes in Real Estate, Wills, Trusts & Estate Planning, Small Business Development, Probate, Corporations & Partnerships and Litigation. Mr. Peterson also has ancillary interests in several local businesses including the AbouTown Press and Chic Chocolates.

The presentation has been submitted and is pending HRCI approval.



Please RSVP for the monthly luncheon by noon on **Monday, 5/30/11!**
rsvpprograms@gmail.com





Member Newsletter



"It is our choices...that show what we truly are, far more than our abilities."
~J.K. Rowling~



Make sure you notify us of email changes or changes to your contact information!

Have you recently attended a great presentation or do you have a topic or speaker idea to share with Programs?

Or are YOU willing to share about a HR subject matter at an upcoming meeting?

If so, please contact us with the details.



President's Piece

Greetings Everyone,

I hope you have had a good month. It's been warm, cool and most importantly, we have received some well needed rain. Hard to believe we are almost half way through the year. I hope everyone has made summer vacation plans to try and relax with family and friends. If you are one of those that has been secretly studying to take either your PHR or SPHR, I wish you the best of luck. Please send us a note to tell us you passed so that we can recognize you. What a great accomplishment! Please help me in welcoming Brittany Berryman to the BV-SHRM Board, as our new Secretary. I sincerely appreciate Brittany's willingness to serve on the board with Amber's departure. Amber was an asset to the board for several years and will be missed. I'm excited about Brittany's enthusiasm and the new and fresh ideas that she will bring to the organization. If you haven't signed up for HR Southwest, please do so. There looks like we will have a nice size contingent going up there this October. If we can do anything for you, please don't hesitate to contact any of us. That's what we are here for!

Humbled by this Opportunity,
Stacy

BV-SHRM Membership Roster

The BV-SHRM membership roster as of March 31st has been posted on the BV-SHRM webpage under *Member Info* and is available for member access. Remember this list is made available as a professional resource for individuals in your profession and should not be used for solicitation.

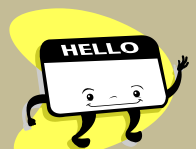
Please review your information listed on the roster and notify us if updates are needed to your contact information by sending email to bvshrm@gmail.com.

Website: www.bv-shrm.org

Contact a Board member for the password to the roster.

Order Your BV-SHRM Magnetic Name Badges

BV-SHRM is now using magnetic names badges, so if you want one, you can still order one. The cost for the magnetic name badge is \$5.00 and we will accept cash or checks. If you are paying by check, please make your check payable to BV-SHRM.





Member Newsletter



Upcoming Meetings:

June 2 – Attorney Chris Peterson; References

All meetings are at College Station Conference Center unless otherwise noted.

ANNOUNCEMENTS

Welcome New Members!



Welcome!

Chelsea Olson
HR Supervisor
Lynntech, Inc.



LEADING WOMEN EXPRESS NETWORK NAMES 2011 WOMAN OF THE YEAR

(Bryan, Texas) The Leading Women Express Network of Bryan/College Station, a chapter of the American Business Women's Association has named Geanna Kincanon its 2011 Express Network Woman of the Year.

Geanna graduated from Texas A&M University with a Bachelor of Business Administration in Management and Psychology. She has earned her Senior Professional in Human Resources (SPHR) certification and has more than 20 years' experience in the field and in industries including biotherapeutics, telecommunications, and consumer goods and services. Geanna is currently the Human Resources and Compliance Manager at G-Con Biotherapeutics, LLC.

As an active member of the Brazos Valley Society for Human Resource Management (BV-SHRM), she is serving her second term on the Board as the Vice President of Membership. Geanna joined ABWA in 2007 and has since held many leadership positions in the Leading Women Express Network (LWEN), the Bryan-College Station Charter Chapter and the Houston Area Council (HAC). She was nominated as LWEN's Network Women of the Year 2010.

Geanna enjoys living in Bryan-College Station, is actively involved in the community and volunteers with various service organizations. She balances her life with family, is the mother of four, Brandon, Brittany, Brooke and Brayden and is a grandmother to Nevaeh.

On winning the 2011 Women of the Year Award Geanna says: "Thank you for your support! My passion for ABWA is what drives me to learn more about this awesome organization. You have contributed to making me a stronger, wiser businesswoman and leader. I am forever grateful and honored...truly a moment in my life I shall never forget. Thank you!"

The American Business Women's Association's mission is to bring together business women of diverse occupations and to provide opportunities for them to help themselves and others grow personally and professionally through leadership, education, networking support, and national recognition.

Debbie Holladay | President Elect
Leading Women Express Network

Visit us and become a Fan of BV-SHRM on



Visit us on the Web at

www.bv-shrm.org





Member Newsletter



“Courage is going from failure to failure without losing enthusiasm.”

~Winston Churchill ~

Fun Monthly Observances:

- National Candy Month
- Surf Music Month
- Go Barefoot Day (1)
- Leave the Office Early Day (2)
- Superman Week (10-13)
- Recess at Work Day (16)
- Flip Flop Day (17)
- Please Take My Children to Work Day (27)

Summer is coming and we want to play! However, it is not a good idea to ditch work to run around barefoot dressed as Superman listening to surf music.

Some Actual Useful Observances:

- Effective Communications Month
- National GLBT Awareness Month
- National Safety Month
- Professional Wellness Month
- National Business Etiquette Week (10-17)
- Public Service Day (23)

Professional Development Opportunities Continued

SHRM 2011 Conference Schedule:

SHRM 2011 Annual Conference & Exposition
June 26-29, 2011, Las Vegas, NV

Diversity & Inclusion Conference & Exhibition
October 24-26, 2011, Washington DC

To register for SHRM Conferences use below link:

<http://www.shrm.org/Conferences/Pages/default.aspx>



THE HRSOUTHWEST CONFERENCE™

HR Training Camp – Building HR Champions

October 30- November 2, 2011, Fort Worth, TX

The HRSouthwest Conference is the largest regional human resources conference in the United States. The Conference offers world-renowned keynote speakers, two and a half days of educational sessions, networking opportunities and exposure to the latest HR products, techniques and services.

SHRM Education Series:

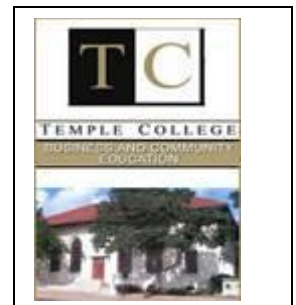
<http://www.shrm.org/EDUCATION/SEMINAR/Pages/default.aspx>

TEMPLE COLLEGE

As the only SHRM college/university partner between Round Rock and Dallas, *Temple College Division of Business and Community Education* strives to provide several professional development opportunities for HR professionals throughout the year.

- SHRM’s *Essentials of HR Management*, Wednesday and Thursday, June 22 and 23
- *Leadership Launch*, Thursday afternoons, June 2, 9 and 16
- *Performance Management*, Tuesday afternoons, July 12 through August 2

More information at www.templejc.edu or 254298-8625.



Refer-a-Friend Program

Share BV-SHRM with a friend or co-worker in the HR field by completing the *Refer-a-Friend* form located at the end of the newsletter. Help them achieve professional growth and networking.





Member Newsletter



Legal Briefs

Welcome to Legal Briefs for HR, an update on employment issues sent to over 4800 HR professionals, in-house counsel and business owners all over the U.S. 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 at www.munckcarter.com under Media Center/Legal Briefs. I'm looking forward to speaking at the University of Texas School of Law 2011 Labor and Employment Law Conference in Austin on May 12 and 13. An agenda and registration info is available at www.utcle.org or call 512.475.6700. And I'll be providing a legal/legislative update to Dallas chapter the Worldwide Employee Benefits Network on May31. For more info, go to www.webnetwork.org/dallas/index.cfm. Welcome, to new subscribers in the Lubbock SHRM chapter who attended my "Handbook Helper" presentation on April 28!

Here's what May or may not make your Day (this May Day):

1. **Contractor Conundrum Continues** - The federal Employee Misclassification Prevention Act (EMPA) of last year has been replaced with a more ominous-sounding Payroll Fraud Prevention Act (S 770). One of the EMPA record-keeping headaches has been removed, but this bill again proposes to amend the FLSA and retains requirements to [1] notify workers upon hire whether they are an employee or a "non-employee" and provide them with the U.S. Department of Labor website, to get more info and to file a complaint if the worker thinks his or her classification is incorrect; [2] beef up civil penalties to a range of \$1000 to \$5000 per misclassified worker; [3] impose treble (3x) actual damages (e.g., minimum wage, overtime) arising from misclassification and more. The most recent budget includes \$21.3 million for the Secretary of Labor to identify and pursue cases of worker misclassification. With government coffers low, this measure is seen as a way to ensure that "contractors" who are really employees receive all protections of the FLSA and employers withhold and properly remit taxes to state and/or federal agencies.
2. **Take a Tip** - New FLSA regs have been released and will take effect 5-5-11, impacting tip credits, tip pooling, salaried nonexempts paid via the fluctuating workweek method and more. Employers who use the tip credit (i.e., pay certain tipped nonexempt workers only \$2.13 per hour, with the difference between that amount and the applicable minimum wage being satisfied via customers' tips) must inform workers of the intent to use the tip credit, along with additional details such as the direct pay amount, the tip credit amount, that the amount claimed as a tip credit cannot exceed the tips actually received and more. There is no requirement that this notice be made in writing, but that is the best way to prove compliance, if asked. Tip pooling arrangements are no longer subject to a 15% cap on contributions to the pool. The fluctuating workweek is a method used to pay nonexempts a fixed salary where hours worked vary from one week to the next. When those hours exceed 40 in a workweek, overtime is calculated by dividing the salary by the hours worked and using half of the resulting amount as the multiplier when paying overtime. The revised reg addresses the question of paying these employees bonuses or other premium pay and states that such payments are incompatible with the fluctuating workweek method and payment would negate the employer's ability to use that method.
3. **Sibling Rivalry?** - Not to be outdone by the SEC, which recently awarded its biggest ever whistleblower bounty (\$1 million), the IRS awarded \$4.5 million to a whistleblower under its enhanced program, which was designed to encourage employees to rat out their noncompliant employers. The award was 22% of the \$20 million recovered in back taxes and interest from a large financial firm.
4. **April Showers** -
 1. On April 6, the Social Security Administration (SSA) announced it would resume sending single employee "no match" letters to employers and would permanently discontinue use of the letter which lists multiple employees.

Employers remain between a rock and hard place, with the SSA cautioning that a mismatch letter is not evidence that the individual lacks U.S. work authorization and ICE holding firm that an employer's receipt of the letter and failure to address it is possible evidence of "knowing" employment of an unauthorized worker which would violate the INA. The proposed "safe harbor" rule from 2007 was never finalized and was eventually rescinded, removing a set of steps for employers to follow in these situations that would provide protection from liability for an INA violation. For now, check your records for a possible data entry error that would explain the mismatch in your employee's SSN. If that's not the answer, direct the employee to go to the SSA to get a correct SSN card and allow a "reasonable" amount of time for this to happen.

2. On April 12, the Paycheck Fairness Act was re-introduced in the Senate (S. 797) and the House (H.R. 1519). The bill, which is intended to beef up the Equal Pay Act, fell two votes short of cloture in the Senate last November.

3. On April 14, CIS announced that a final rule had been adopted, making changes to the Form I-9. Chances are you've been operating under the interim rule (since 4-3-09) and the final rule has no changes to report. You can see the form at www.uscis.gov/files/form/i-9.pdf. Some documents are no longer acceptable to provide identity and/or authorization to work and some new docs have been added. Also, you can no longer accept expired documents as proof.

4. On April 14, the Employment Non-Discrimination Act (ENDA) was re-introduced in the Senate (S. 811). The companion bill is H.R. 1397. ENDA proposes to make unlawful employment discrimination based on sexual orientation and gender identity. You can always see full text and check out the status of pending federal bills at <http://thomas.loc.gov>.

5. April 28 was Take Our Daughters and Sons to Work Day . . . and June 24 will be Bring Your Dog to Work Day. Uh oh, the cat's going to feel left out,

5. **Handbook Helper** - Not so long ago, drafting an employee handbook was largely an exercise in creative writing. Today, an intricate web of federal, state and local regulation touch nearly every employer policy, limiting what you can and cannot say. The latest poke comes from the NLRB, where the Board disregarded a hearing officer's findings and held that three handbook policies were so objectionable, the results of a successful union decertification had to be set aside. *Jurys Boston Hotel*, 356 NLRB No. 114 (2011). Even though the employer had revised two statements and removed the third in response to an unfair labor practice filing, the Board opined that the statements relating to solicitation, loitering and grooming (especially wearing of buttons) tended to interfere with employee choice. Of interest, the union raised no objection to these policies during the two years leading up to the decert election.
6. **The Bear Necessities** - A wildlife park worker who was sat upon and bitten while feeding a grizzly bear in its pen can collect workers' comp benefits even though the worker admitted he smoked pot on the way to work that day. While most states have statutory exclusions for unemployment comp and workers' comp eligibility when the employee tests positive for illegal drugs, it's not always a slam dunk. In MT, the Supreme Court decided that the worker was in the course and scope of his duties when injured and while his pre-work pot use was "ill-advised" and "mind-bogglingly stupid," it was not the leading cause of the injury. *Hopkins v. Kilpatrick* (Mont. 3-11). Other states have strict procedural requirements on the drug testing process which can trip up what looked like an easy win for the employer, so bear in mind the requirements that apply in your locale. ☺

7. **Bright Spots** -

1. President Obama is expected to sign a bill which will repeal the much maligned PPACA requirement that employers provide a Form 1099 for all corporate service providers that received more than \$600 annually in goods and/or services.

2. EEOC will pay \$751,942.48 to an employer, as court-ordered sanctions for pursuing a meritless claim. EEOC filed a class action lawsuit, claiming the employer had a blanket policy of refusing to hire individuals with a criminal record and such action had a disparate impact on Blacks and Hispanics. The court determined the case had no foundation from the start and it was unreasonable to pursue the claim, driving up the defendant's attorney fees, expert fees and court costs to more than \$1 million. *EEOC v. Peoplemark, Inc.* (W.D. Mich. 3-11).

8. **Stated Differently** - Here are some morsels for you multi-state employers:

1. **Arizona** - The 9th Circuit upheld a U.S. District Court injunction, blocking parts of the AZ immigration law including provisions making it unlawful for an unauthorized worker to solicit, apply for or perform work in the U.S. The U.S. Department of Justice sought the injunction, claiming that federal law preempts state action on immigration.
2. **Georgia** - The House sent a bill (HB 87) to Governor Nathan Deal for signature, which will require private sector employers with 500+ employees to use E-Verify on all new hires, beginning no later than 1-1-12. Employers with less than 500 but more than 99 employees will have until 7-1-12 to comply and those with 11 or more employees have until 7-1-13. Employers with ten or less employees are excluded. Also, only employees who work 35+ hours per week are subject to the requirement.
3. **Hawaii** - Effective 1-1-12, same sex couples can enter into civil unions which entitle them to the same rights, responsibilities and obligations as married couples.
4. **New Jersey** - Effective 3-29-11, it is unlawful for employers to knowingly or purposefully publish, in print or on-line, an ad for any job vacancy in the state that contains [1] any provision stating or suggesting that the qualifications for a job include current employment; [2] any provision stating or suggesting that the employer will not consider or review an application for employment submitted by any job applicant currently unemployed; or [3] any provision stating or suggesting that the employer will only consider or review applications for employment submitted by job applicants who are currently employed. Penalties start at \$1000 and there is no private cause of action for individuals, against the prospective employer.
5. **Philly, PA** - If the employment application you use in this city has a box to check relating to arrests and/or convictions, you will need to revise your form. 90 days after 4-13-11, an ordinance will take effect which makes it unlawful for an employer of 10+ employees to [1] knowingly and intentionally inquire about, require a person to disclose, or take any adverse action against any person on the basis of an arrest or criminal accusation not pending against the person and that did not result in a conviction; or [2] inquire about or require an applicant to disclose any criminal convictions during the application process and during the first interview. There is an exception for situations where such inquiry is allowed or required (e.g., child care workers). It's still OK to run a criminal background check later in the pre-employment process, or on current employees.

9. **For the Birds** - If you like being tweeted and want breaking news on employment law changes, follow me on Twitter. I'm at @amross.

Until next time,

Audrey E. Mross
Labor & Employment Attorney
Munck Carter LLP
600 Banner Place
12770 Coit Road
Dallas, TX 75251

972.628.3661 (direct)
972.628.3616 (fax)
214.868.3033 (iPhone)
amross@munckcarter.com
www.munckcarter.com

Immigration Update

USCIS INTRODUCES I-9 CENTRAL WEB RESOURCE

On May 13, 2011, the Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (CIS) announced the launch of [I-9 Central](#), a new online resource entirely dedicated to the Employment Eligibility Verification Form, Form I-9. The website contains the most recent updates to Form I-9, along with resources, tips, and guidance for proper Form I-9 completion.

I-9 Central will house all Form I-9 resources including the most current Form I-9, the form instructions, and the M-274 "Handbook for Employers." In addition, the website will provide detailed instructions for completing the form and discussions of common mistakes and how to correct errors. USCIS will also offer free [webinars](#) on Form I-9 completion and will provide answers to employers' recent questions about the Form I-9 process.

For information on conducting an independent Form I-9 audit or for advice and consultation in connection with workforce compliance and electronic I-9 systems, please contact your FosterQuan immigration attorney.

As always, FosterQuan will continue to monitor developments in the area of I-9 Employment Eligibility Verification and Workforce Compliance and will provide additional information via our firm's [website](#) and future Immigration Updates[®].

REFER A FRIEND!

I would like to refer a friend to BV-SHRM.

Please send information about this organization to:



Name: _____

Address: _____

Phone: _____

Email: _____

Your Name: _____
(Optional)