



# BV-SHRM Newsletter

## Chapter #0330

September 2011

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### Monthly Program & Luncheon

**TOPIC:** Keeping Morale & Productivity High Even in a Down Economy

**WHEN:** Thursday, September 1, 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:** Teresa Gonzalez

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

### Program Details

"Keeping Morale and Productivity High Even in a Down Economy"

Personal and professional impacts from the economy are showing up as a variety of attitude and behavior maladies affecting the morale and productivity of individual staff members... and these symptoms can be contagious.

- Learn **true** motivators (hint: It's not money)
- Discover low cost/no cost positive impacts you can make right now

### Speaker Bio

Teresa Gonzalez is co-owner and COO of THE MANAGEMENT CONNECTION, INC.

She joined TMC as a Professional Facilitator in 1999. Reflecting TMC's vision of being *Committed to Your Leadership*, Teresa's facilitation style includes a deep understanding and respect for the individual. Her wisdom and insight is evident through consistent client appreciation for achievement of significant results which impact their professional and personal lives.

Teresa has an extensive background and practical experience in all aspects of individual, staff and organization development. She has a passion for facilitating organizations through processes that define and implement the critical links between strategic goals, culture, staff value, and performance outcomes. Teresa has been an invited speaker at numerous professional conferences on a variety of topics.

**THE MANAGEMENT CONNECTION (TMC)** is a professional facilitation firm established 1992 in Bryan-College Station. We work primarily with progressive municipalities and private-sector entrepreneurs. We design and facilitate processes to maximize the ability of individuals, groups, organizations, and communities to reach their full potential. We do extreme customization of all our processes and products to honor the unique characteristics and leadership style of each of our clients. We work diligently to exceed client expectations. We establish quality, long-term relationships and provide follow-up service to ensure significant results.

#### *Inside this Issue:*

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Legal Briefs



**Please RSVP for the monthly luncheon by 10:00 on**

**Tuesday, 8/29/11!**

**rsvpprograms@gmail.com**





# Member Newsletter



*"If you want to be incrementally better: Be competitive. If you want to be exponentially better: Be cooperative."  
~Anonymous~*



**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 All,

Well I hope everyone had a chance to spend some time with family and friends before school started. I'm excited about the upcoming months. With the start of school comes football, tailgating, and hopefully cooler temperatures. Should be a great season for the Aggies and with that comes more business for our community. Looks like we will have a great group traveling to HR Southwest in October. We are trying to update our list so that we get credit of attendance for all of our BV-SHRM members. At the next luncheon, we will ask each of you whether or not you are attending the conference. We are not trying to do a high pressure sales technique, we just want to know who we can expect up in Fort Worth. I hope you also plan to attend our fall business seminar on October 4th and then our Holiday Luncheon on December 1st. New Addition. Lisa Villalobos has joined the board as our newly created position named "Member Engagement". Lisa's role will consist of orchestrating the Excellence in HR Award, Facebook, Twitter, Linked In and other tools, activities, or events that will enhance engagement between members within BV-SHRM. Last item, if you would like to participate on the 2012 BV-SHRM board in some capacity or even assist a particular area, please make that known to either myself or someone else on the board. We are always looking for great volunteers and fresh ideas.

Here to serve you,  
Stacy

## Building Value with HR Excellence Award

### It's Award Time!

Very soon we will be sending out, via e-mail, an invitation to your supervisors to nominate members for the Building Value with HR Excellence Award.

Last year we had several excellent candidates and the award went to Janelle Ramirez. This year it could be you!

While we know it's awkward, we hope you will send the e-mail to your supervisor. We believe that the ease of completing the nomination form electronically will allow us to be able to consider more nominees this year. Due date for the initial nomination will be mid-October.

The winner receives an award plaque, is recognized in our chapter, and \$250 will be donated in the winner's name to the SHRM Foundation.

We hope you will participate in this program recognizing our excellent HR professionals!

Lisa Villalobos, PHR



# Member Newsletter



## Upcoming Meetings:

September 1  
October 6  
November 3  
December 1 – Holiday  
and Award Program at  
Hilton Hotel &  
Conference Center

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

## EMPLOYEE RELATIONS BUSINESS SEMINAR

CO-SPONSORED BY **BV-SHRM**  
AND WORKFORCE SOLUTIONS OF BRAZOS VALLEY

**WHEN: Tuesday, October 4, 2011  
8:00 am – 4:00 pm**

**WHERE: Center for Regional Services  
3991 E. 29<sup>th</sup> Street  
Bryan, Texas**

**COST: \$75.00 if postmarked by September 16, 2011  
\$99.00 if postmarked after September 16, 2011  
Includes seminar registration, lunch and snacks.**

We are pleased to welcome Ms. Audrey Mross, partner with Munck Carter; Mr. Mick Normington, with the Texas Workforce Commission; and Dr. Michael Wesson, with Texas A&M University's Mays School of Business, as our presenters.

This seminar is a great way to stay up to date on HR issues, network with fellow HR Professionals, and earn HRCI recertification credits at a reasonable cost and with little to no travel time.

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RESOURCE MANAGEMENT

## ANNOUNCEMENTS



*Linda Edge  
Texas Transportation  
Institute*

*Jeremy Damron  
Halliburton*

*Russell Dempsey  
Express Personnel*



# Member Newsletter



*“Your point of view sets you up well in advance for how you view the events as they unfold.”*

*~Mary Ann Radmacher ~*

## Fun Monthly Observances:

Happy Cat Month  
National Coupon Month  
Popeye Week 9-11  
Line Dance Week 12-17  
Wonderful Weirdoes Day

**If you see someone dressed as Popeye line dancing with his cat, wish him a wonderful weirdoes day!**

## Some Actual Useful Observances:

International Strategic Thinking Month  
National Preparedness Month  
Self Improvement Month  
Hispanic Heritage Month  
National Payroll Week 6-10  
Deaf Awareness Week 18-24  
Register to Vote Week  
Labor Day 5  
National Boss/Employee Exchange Day 12  
American Business  
Women's Day 22  
Rosh Hashanah 28

## Professional Development Opportunities

### SHRM 2011 Conference Schedule:

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>

During these economic times SHRM members can take advantage and access sessions on-line for a fraction of the cost to attend.



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.

## Certification

### PHR/SPHR/GPHR Deadlines and Fees

#### 2011 Exam Application Submission Dates

<i>Winter</i>			
	Testing Date	Applications Accepted	*Late Applications Accepted
PHR/SPHR	Dec. 1, 2011- Jan. 31, 2012	July 11, 2011 - Oct. 7, 2011	Oct. 8 - Nov. 11, 2011
GPHR	Dec. 1-31, 2011	July 11, 2011 - Oct. 7, 2011	Oct. 8 - Nov. 11, 2011

#### Fees

	PHR	SPHR	GPHR
Price	US \$300	US \$425	US \$425
SHRM Member Price	US \$250	US \$375	US \$375

All prices include a US\$75 nonrefundable application fee.

A US \$75 nonrefundable late fee will be applied on applications received after the regular deadline.

To apply online please visit this link: [http://hrci.org/apply\\_online/](http://hrci.org/apply_online/).





# Member Newsletter



## Student Mentor Program

Elyse Yapp is the new BV-SHRM Liaison for the Texas A&M chapter of SHRM. She is also the new coordinator for the mentor program that they have organized in the past few years. She would like to take the opportunity to ask for your involvement to be a mentor in their program in order to guide and support their members to help them turn into HR professionals. If you're interested please email [ely42@neo.tamu.edu](mailto:ely42@neo.tamu.edu). I would appreciate a response by September 20th.

I will be attending the luncheon on September 1st. Looking forward to meeting you and other BV-SHRM members!

Thank you!

Elyse Yapp

BV-SHRM Liaison

Mentor Program Coordinator

## 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](http://www.munckcarter.com) under Media Center/Legal Briefs. Welcome to new subscribers I met while speaking at the Texas Workforce Commission's Texas Business Conference on a very sultry Friday afternoon in Fort Worth.

Here's what HOT (L) here in Texas and all around the U.S.:

1. **Hire Power** – Hot on the heels on the EEOC's open forum on employer discrimination against the unemployed, Congress has introduced a bill to make it unlawful for employers to (a) refuse to consider for employment or refuse to offer employment to an individual based on his or her status as unemployed; (b) publish a job ad in any medium that says or implies that unemployment is a disqualifier from job consideration; or (c) direct an employment agency to screen out unemployed applicants. The Fair Employment Opportunity Act (H.R. 2501) was filed on July 12 and has 35 co-sponsors. If you'd like to read full text of the bill and track its movement, go to <http://thomas.loc.gov> and type in the bill number.
2. **Whistlin' While You Work, the Sequel** – As reported in LB4HR last month, the final regs for the Dodd-Frank whistle-blower rules addressed employers' concerns that employees were being incentivized via cash bonuses to report problems directly to the SEC, with no prior attempt at internal resolution. In the regs, the SEC said it would consider the whistle-blowers participation in internal compliance systems as a factor to increase the amount of bonus and interference with internal compliance systems as a reason to reduce the award. Four members of Congress must think this does not go far enough, as they have filed the Whistleblower Improvement Act (H.R. 2483) which would, among other things, condition bonus eligibility on internal reporting to one's employer prior to going to the SEC and disqualify from bonus eligibility anyone who was culpable in the wrongdoing. Use the Thomas link provided above, to check out full text and progress.
3. **FMLA for Mourners** – A lone Senator has filed the Parental Bereavement Act (S. 1358) which, if passed, would expand the qualifying reasons for taking FMLA leave to include death of an eligible employee's son or daughter. The leave would be taken continuously, meaning that leave on a reduced schedule or intermittent

basis would not be allowed unless the employer chose to do more than the law requires. Use the Thomas link provided above, to check out full text and progress.

4. **No Peeking** – The Regents of the University of CA have agreed to pay \$865,500, create new policies/procedures, engage in significant employee training, foot the bill for an independent monitor and be subject to three years of monitoring and reporting due to a HIPAA violation arising from nosy health care workers who improperly accessed patients’ medical records. The investigation findings are a roadmap of what you should be doing if you maintain medical records. The health care system was admonished for wrongful access of patient records by employees, lack of employee training regarding privacy of medical records, lack of employee sanctions when occasions of wrongful access became known to the employer and lack of meaningful security measures to reduce the risk or eliminate wrongful access of patient records.
5. **Six Steps to ADA Salvation?** – A July 6 Consent Decree between the EEOC and Verizon gives and receives. If the court agrees, the EEOC will receive a \$20 million settlement arising from the company’s failure to reasonably accommodate disabilities via making exceptions to a “no fault” attendance policy where “chargeable” absences were caused by a qualifying disability. And the EEOC gave a 6-step analysis to apply when considering whether an employee’s absence should be chargeable and eventually result in corrective action. If any of the following are NOT satisfied, the absence may be chargeable. If all are satisfied, corrective action is a really bad idea. The factors are: (a) current associate has a mental or physical impairment that substantially limits one or more major life activities; (b) the associate’s absence was caused by a disability; (c) the associate or associate’s rep used the designated company process to ask for a period of time off due to the associate’s disability; (d) the associate’s absences have not been unreasonably unpredictable, repeated, frequent or chronic; (e) the associate’s absences are not expected to be unreasonably unpredictable, repeated, frequent or chronic; and (f) the associate’s need for time off as a reasonable accommodation does not pose a significant difficulty or expense for the employer. *EEOC v. Verizon Del. LLC* (D. Md. 7-11). Since the ADAAA became reality, the focus has shifted from proving/disproving the existence of a qualifying disability to the interactive process between employee/employer and reasonable accommodation, and “no fault” or “automatic termination” policies are a lightning rod for the EEOC’s ire.
6. **Sound Familiar?** – Denny’s Restaurants settled an ADA class action with the EEOC, offering \$1.3 million to 34 claimants. The beef was over a blanket attendance policy which effected an automatic discharge after either 12 or 26 weeks of medical leave, with no additional leave offered as reasonable accommodation for disabled employees. Starting to see a pattern here?
7. **Do You Know Your Credit Limit?** – On October 1, Connecticut and Maryland will join Illinois, Oregon, Washington and Hawaii in limiting employers’ ability to use an applicant’s or employee’s credit score, history or related information as a factor in the individual’s terms and conditions of employment. And other states have/are considering similar measures, so keep your eye on your legislators and this issue.
8. **California (Pay)Roll** - Something fishy just came out the CA Supreme Court and employers are not going to like the smell of it. California-based employers must apply CA wage and hour law (including the potential for daily overtime for nonexempts) to non-resident workers for the time they spend working in CA. *Sullivan v. Oracle* (Cal. 6-11). The case involved overtime claims by employees of CA-based Oracle, who lived in AZ and CO but occasionally performed services for their employer in CA. For starters, the instructors were mistakenly classified as exempt, which opened the door to daily overtime in CA as well as overtime for work which exceeded 40 hours in a workweek performed in other states. The case is a good read, at [www.courtinfo.ca.gov/opinions/documents/S170577.PDF](http://www.courtinfo.ca.gov/opinions/documents/S170577.PDF). Before sending employees to work in CA, you might want to re-analyze their exempt vs nonexempt status under CA law and bone up on their unusual overtime requirements.
9. **Keep Summer Fun** – You might direct your employees who drive in the course and scope of their duties to a 30-second PDA created by the DOT and Disney’s Pixar, for a humorous reminder that only bad guys drive distracted. You can find it at <http://distraction.gov/cars2/>.

10. **Stated Differently** – Here are some hot topics for you multi-state employers:

1. **Connecticut** – Effective October 1, public and private sector employers may not discriminate in employment, public accommodation, housing, credit and other areas based on an individual’s gender identity or expression. Effective January 1, 2012, employers of 50+ service workers (hourly worker in one of 68 professions identified by the Bureau of Labor Statistics Standard Occupational Classification System) must provide up to 40 hours of paid sick leave, at a rate of one hour earned for every 40 hours worked. Up to 40 hours of unused sick time can be carried into the next calendar year, but use of sick time is limited to 40 hours per year.
2. **Maine** – Effective September 28, employers may not prohibit employees who have valid conceal carry licenses from having firearms in their vehicles while parked on the employer’s property, so long as the firearm remains in the locked vehicle and is stored out of sight.
3. **New Jersey** – Parents or affiliates of a company, including a private equity investor, which failed to provide proper notice to employees and government entities under the state’s WARN law may be liable for severance pay owed to employees under the statute. *DeRosa v. Accredited Home Lenders, Inc.* (NJ App. Div. 6-11).
4. **New York** – A series of NY DOL Opinion Letters interpreting the state’s Wage Payment Law make clear that an employer may not deduct from an employee’s pay for overpayments or advances (e.g., cash, unearned PTO), even when OK’d by the employee in writing. This stems from a narrowly written statute which enumerates the scenarios where deductions from wages would be allowed and which does not include an overpayment or an advance. The DOL has opined that an employer may ask the employee to voluntarily repay the overage/debt, but such request must make clear that the employee’s refusal will not result in any type of adverse employment action. What is the employer’s recourse if the employee says “no” to such request? Per the DOL, file a lawsuit against the employee.
5. **Virginia** – Effective December 1, 2013, employers of 50+ employees which have a contract with the Commonwealth valued at \$50,000 or more must use E-Verify on new hires to determine if they are authorized to perform work or provide services under the contract.

11. **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,

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## REFER A FRIEND!

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

Please send information about this organization to:



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Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Your Name: \_\_\_\_\_  
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