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February 2012

Issue 12



Chapter 0175

Dear Bryan,

TAHRA volunteers are busy preparing an exciting schedule of Program Meetings and Learning Labs for 2012. We want to thank those of you have renewed your membership for another great year. We also want to welcome those of you who are new to TAHRA. We value your membership and respect your feedback. Please feel free to contact TAHRA at admin@tahra.org for any questions, comments or suggestions for TAHRA 2012. Enjoy the newsletter!

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President's Message

by Chris Wright, Ph.D.

Get Involved: Volunteer on a Committee!

At some point, you have probably asked yourself, "Should I join a TAHRA committee, or volunteer my time in some way?" This is a very personal decision and one to give serious consideration. I can only share how volunteering has changed my life and share some insights that will encourage you to make the move to volunteer in TAHRA this year. Over the years I have volunteered my time and services to many non-profits in Tulsa including TAHRA, The Child of Divorce, Tulsa Ballet, TRMC's Adolescent Psychiatric Facility and many others. The impact volunteering has had on my life is immeasurable and the personal relationships I've formed by deciding to take a leap of faith to help others have led to friendships that will last a lifetime. But, if my story isn't enough, check out why other professionals choose to volunteer. According to a 2005 Reed Executive survey, professionals and employers listed the following benefits from volunteering:



- Boosting career options
 - 73% of employers would recruit a candidate with volunteering experience over one without
 - 94% of employers believe that volunteering can add to skills



State HR Conference
April 25-27, 2012
Tulsa, OK
Register by 2/28/2012
for discount!



- *94% of employees who volunteered to learn new skills had benefited either by getting their first job, improving their salary, or being promoted*
- Learning and developing new skills
- Being a part of your community
- Motivation and sense of personal achievement
- Meeting a diverse range of people
- Finding new interests and hobbies

Make 2012 the year you step outside of your comfort zone, volunteer with TAHRA and make a difference in your career and a great organization. Come by the TAHRA committee tables at the February program meeting and meet our wonderful committee chairs and learn more about the opportunities waiting for you.

February Program Meeting

Wednesday, February 15 | 11:15am - 1:00pm |

Volunteer Fair begins at 10:45

Tulsa Country Club

Members - \$20, Guests - \$30

Register today!

Absenteeism and Leave Issues: Tips for Preventing Abuse

Presented by Randall Snapp



Have questions about leave issues? Let TAHRA help at this month's Program. Randall Snapp of Crowe & Dunlevy, will present an interactive study of an actual fact scenario and will focus on best practices for dealing with leave requests and issues arising from the Family and Medical Leave Act, the Workers Compensation Act and typical company leave policies.

The program is designed to offer participants a better understanding of the many leave laws applicable to employers. Randall will also provide instruction for the development of leave policies and strategies for dealing with employee leaves and will promote the critical thinking process for developing procedures and responses to leave scenarios.

Randall J. Snapp, a graduate of the University of Kansas, joined Crowe & Dunlevy's Tulsa office in 1993. He has focused his practice extensively in Employment Law, Workers' Compensation Law and commercial litigation since 1987 and restricts his employment law practice to representation of management and employers. He is listed in The Best Lawyers of America and Oklahoma Super Lawyers in the field of employment law. He is a member of the American Bar Association Employment Law Section; and the Oklahoma Bar Association Employment Law Section and Workers' Compensation Section. He is a past Chairperson of the Oklahoma Bar Association Labor & Employment Law Section. He is a frequent lecturer on employment related subjects. He is a former Adjunct Instructor teaching Human Resources Law at Tulsa Community College. Mr. Snapp is a past President of Big Brothers and Big Sisters of Green Country and

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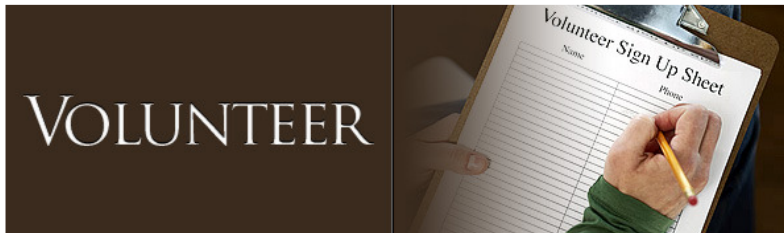
TAHRA Partners

TAHRA Partners are regular supporters of TAHRA and helps our organization continue to develop and present quality continuing education programs, create opportunities for peer networking and enhance our overall contribution to the human resources profession.

For information on becoming a TAHRA Partner [click here.](#)

Meet our TAHRA Partners...

serves on several civic boards and committees.



Arrive early to the February Program Meeting and learn more about our TAHRA committees. We are always in need of additional volunteers to help enhance TAHRA member offerings!
For information on all chapter committees [click here](#).

February Learning Lab

Thursday, February 23 | 2:00pm - 4:00pm |
 Location: OSU Tulsa
 Members - \$15, Guests - \$25

ADA Updates: How to Comply with the New Regulations

This month join TAHRA as Chris Thutchley leads an informative presentation about the new regulations surrounding the ADA. Chris will present on the primary changes made by ADA Amendments Act and the new ADA regulations. He will discuss how the changes impact the way employers manage employees with impairments and how to identify whether an impairment constitutes an ADA covered disability. Chris will also educate HR professionals in how to effectively navigate the disability accommodation process and help employers avoid the risk of "regarded as" disabled claims.

Register Now!

Chris Thutchley is a shareholder and director of Newton, O'Connor, Turner & Ketchum and has advised and defended employers in labor, employment, and business matters for nearly 20 years. Attorneys in the legal community have rated Chris "AV Preeminent," the highest rating for legal ability and ethics earned by only 12% of attorneys in North America. Tulsa People magazine has listed Chris as one of Tulsa's "Top Lawyers."

Chris is one of few employment lawyers in the nation to be certified as a Senior Professional in Human Resources (SPHR), an internationally recognized designation conferred for senior-level mastery of the strategic and functional areas of human resources. Chris earned his law degree with highest honors from the University of Tulsa, where he was inducted into the Order of the Curule Chair, the highest academic accolade conferred by the College of Law. Chris served as Editor-in-Chief of the Tulsa Law Review and received the highest scores in several classes, including Labor Law.

Chris is a frequent author and speaker on a variety of labor, employment, and HR subjects, including breaking e-discovery trends and the impact on employers. He has served in various leadership roles, including Chairperson of the Oklahoma Bar Association's Labor & Employment Law Section, Vice President of Legal Legislative Affairs for the Tulsa Area HR Association, Vice President of Programs

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Bryan Wempen
 Past President

Sally Allen, SPHR
 VP Programs

Jeff Faust, PHR
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 VP Legislative Affairs

Jim Martin
 VP Public Relations

Barbara Ware, CRP
 VP Diversity

Heidi Hartman, SPHR
 VP Education

Donna Fletcher, PHR, CCP
 Treasurer

for the Tulsa EEO Coordinators' Association, and Board Member and Director of the Oklahoma Bar Association Young Lawyers' Division.

TAHRA Awards and Recognition Ceremony

On January 17, TAHRA hosted the 2011 TAHRA Awards and Recognition Ceremony. This event was held at the beautiful and historic Ambassador Hotel in downtown Tulsa and is a celebration for volunteers who have dedicated time and service to TAHRA in 2011. Also recognized at the event were TAHRA past presidents, we had 8 in attendance going as far back as 1990. Members who celebrated a milestone (5 Years, 10 Years, etc.) were also recognized for their dedication to our association.

Bryan Wempen presented the 2011 President's Award to Diem Lewis, SPHR. This annual award is given to an outstanding TAHRA member for their significant contributions to the Association. Diem has been a member of TAHRA since 2009 and has served as VP of Website and Technology and the VP of Programs. Diem was instrumental in the creation of TAHRA's new website in 2009 and in 2011 she scheduled all of our excellent Programs. Diem has given countless hours of her time to TAHRA and has been an amazing volunteer. Join TAHRA in congratulating her for this great achievement.

The 2011 Board also recognized Travis Jones and Bill Young. After many years of service, they will not return to the 2012 Board. TAHRA thanked them for their time and dedication to TAHRA with special awards. They will certainly be missed!

Diane Hewitt
Golf Tournament Chair

Justice Waidner-Smith
Community Relations Chair

Lisa Johnson
Website/Technology Chair

Vicki Hidde
College Relations Chair

Kerry Hope
Registration Chair

Belen Burkhalter, PhD, CRC
Workforce Readiness Chair

Michelle Lehman
Hospitality Chair

Stanna Brazeel, SPHR
SHRM Foundation Chair

Susan McGinnis, RHU
Fundraising Chair

Denise Reid
Chamber Liaison

Julie Odom
Chapter Management
Professional



Diem Lewis showing off her President's Award



2011 Board Of Director's Say Goodbye to Another Great Year



Past President's Bill Webb, Holly Fisher, Bryan Wempen, Bill Young and Br Waidner-Smith, Julie Callahan, Del Reid, Will Williams and current President Chris Wright made the

evening a success!

***TAHRA would like to thank all volunteers of 2011!
We could not have such a successful organization
without you!***

**CIRCUIT COURT FINDS THAT FMLA
PROTECTS PRE-ELIGIBILITY REQUESTS
FOR POST-ELIGIBILITY LEAVES**

by Kirk Turner, VP Legislative Affairs



In a case of first impression, the Eleventh Circuit Court of Appeals has ruled that the Family and Medical Leave Act (FMLA) "protects a pre-eligibility request for post-eligibility leave." That is, the FMLA protects an employee who gives notice, before she is eligible for leave, of intent to take FMLA leave for a qualifying reason once she becomes eligible.

In the case of *Pereda v. Brookdale Senior Living Communities, Inc.*, D.C. Docket No. 0:10-cv-60773-FAM, the Eleventh Circuit Court of Appeals (January 10, 2012), the plaintiff, Kathryn Pereda ("Pereda"), began working for Brookdale's Pompano Beach facility on October 5, 2008. In June 2009, Pereda advised her employer that she was pregnant and would request FMLA leave after the birth of her child on or about November 30, 2009. In September 2009, approximately 11 months after she was hired, Pereda's employment was terminated.

Pereda filed suit, alleging that her termination constituted both interference and retaliation under the FMLA. The trial court granted the employer's motion to dismiss, stating that the employer could not have interfered with Pereda's FMLA rights because she was not eligible for FMLA leave at the time she requested it. In addition, the trial court further held that since Pereda was not eligible for FMLA leave, she could not have engaged in protected activity, and, accordingly, her employer could not have retaliated against her. Pereda appealed the decision to the Eleventh Circuit.

Legal Analysis

Employees may assert two types of claims under the FMLA: an "interference claim," where an employer allegedly denies or interferes with the employee's substantive rights under the FMLA; and a "retaliation claim," where an employer allegedly discriminates against the employee for engaging in activity protected by the FMLA. In order to be protected by the FMLA, an employee must be eligible (i.e., have worked for the employer for at least 12 months and have worked at least 1,250 hours during the previous 12 months) and must experience a "triggering event," such as the birth of a child or a serious health condition. In this case, at the time Pereda requested leave; she was not eligible for FMLA protection, as she had not worked sufficient hours or experienced a triggering event. But, Pereda would have been eligible by the time she gave birth and began her requested leave. Consequently, the Eleventh Circuit concluded that allowing the district court's ruling to stand would create a loophole "whereby an employer has total freedom to terminate an employee before she can ever become eligible" and that "[s]uch a situation is contrary to the basic concept of the FMLA."

With regard to Pereda's interference claim, the court held that "because the FMLA requires notice in advance of future leave, employees are protected from interference prior to the occurrence of a triggering event, such as the birth of a child." The court further noted that the notice period described in 29 U.S.C. § 2612 (e)(1), which requires that an employee provide an employer with 30 days notice of foreseeable leave, was "meant as protection for employers to provide them with sufficient notice of extended absences." The court stated that failing to provide a remedy for an employee who "in goodwill exceed[s] the [30-day] notice requirement," would create a "trap for newer employees" and extend to employers a "significant exemption from liability."

The court stated that its ruling would not expand FMLA coverage to a new class of employees; rather, it means that an employee who is not yet eligible for FMLA leave may bring a lawsuit if an employer terminates the employee "in order to avoid having to accommodate that employee with rightful FMLA leave rights once that employee becomes eligible."

The court held that in light of its conclusion that the FMLA protects a pre-eligibility request for post-eligibility maternity leave, Pereda also could state a cause of action for FMLA retaliation. The court reasoned that a pre-eligibility request for post-eligibility leave is protected activity "because the FMLA aims to support both employees in the process of exercising their FMLA rights and employers in planning for the absence of employees on FMLA leave."

The Eleventh Circuit noted that "the question remains for the district court as to whether there is colorable evidence" that the employer retaliated against Pereda.

In response to the employer's argument that the Eleventh Circuit's ruling could lead to a slippery slope where an employee might announce on the first day of work his or her anticipated need for FMLA leave 364 days later and be protected, the court reiterated the well-settled principle that employees such as Pereda, regardless of their FMLA status, may be terminated for legitimate reasons "such as poor performance or dishonesty."

Practical Impact

While this Circuit Court's ruling is not controlling on Oklahoma employers, employers should be aware that an employee who announces a future need for FMLA leave prior to becoming eligible for such leave may be protected by the FMLA if it appears likely the employee would be eligible by the time the leave were to commence. Caution and counsel should be used in navigating these critical employment and legal issues.

Should you have any questions regarding the information contained in this article, please do not hesitate to contact Kirk Turner at (918) 587-0101, or by email at kturner@newtonoconnor.com.

Calling All HR Rockstars!

by Justice Waidner Smith, Community Relations



Welcome to 2012! I am very excited about all that is to come this year! Each month, dedicated TAHRA volunteers conduct mock interviews for Goodwill's clients. While we have an amazing base of dedicated volunteers, the need is so great that we are always seeking more people to support this partnership.

Last year, TAHRA kicked-off a program in which companies could "adopt" a month of our Goodwill Mock Interview partnership by sending a few of their staff to join our individual volunteers in providing interviewing practice to those job seekers most in need of our professional expertise.

U.S. Cellular was one of the flagship corporations that coordinated a month. Marsha Casebeer, Regional Recruiter, coordinated five of her talented colleagues to serve as Mock Interviewers. The experience proved to be wonderful for those who participated. In her words, "*We found it rewarding to share our knowledge with the individuals and help them overcome interviewing hurdles. We felt like rockstars when we left and got a round of applause after the interviews and open question forum. I encourage everyone to participate because you are giving back to the community and who knows, maybe even meeting your next employee.*"

If this inspires you and you would like to participate, either as an individual or a company, please contact me at jwaidner@ywcatusa.org.

The future dates are Feb. 17, March 16, April 13, May 11, June 15, July 13, Aug. 17, Sept. 14, Oct. 12 and Nov. 16 from 9-11am.

Each of us, as professionals in the HR field, has a lot of offer - you do not have to be a recruiter to support this program - and I guarantee that you will be greatly rewarded by the experience!



Help Us "Bring Good Things to Life" at TAHRA

by Sally Allen, VP Programs

If you attended the November Program Meeting, you got to experience the wonder of Dr. Robbins. You probably left that meeting feeling energized and ready to take on the world. Want to help share that type of feeling with others? Come experience the rewarding sensation that comes from planning an excellent program.

We are looking for TAHRA members to serve on the Programs Committee for 2012. Help us bring the best programming to our monthly chapter meetings by sharing an outstanding speaker with your fellow HR professionals. Work with us to increase the caliber of our Program Meetings. The time commitment is small and manageable. You would only be responsible for helping to plan one meeting during the year.

If you would love to serve on the Programs Committee for 2012, then e-mail Sally Allen at sallen@webcoindustries.com or stop by our table at the February meeting.

Job Accommodation Network (JAN) Adds Second Installment to a New Series of Just-in-Time Training Modules

by Belen Burkhalter, PhD., CRC, Workforce Readiness Chair



JAN announces the second in a series of fully-accessible training modules. The second just-in-time module is titled "Understanding and Applying the Americans with Disabilities Act (ADA) Amendments Act and Its Regulations." The ADA Amendments Act of 2008 significantly broadened the definition of disability, leaving many employers unsure of how to determine whether an employee has a disability. This 43 minute training module and accompanying transcript and handout provides an overview of the changes made to the definition of disability, a summary of the guidance provided by the Equal Employment Opportunity Commission's regulations, and practical ideas for applying the new definition in the workplace. This module can be used to train hiring managers, HR, and supervisors and managers. Individuals can view the module at their computer or employers can use the module as part of a larger training. Watch for the next just-in-time "Using JAN" Module coming soon! The Module and supporting documents can be found in JAN's Multimedia Training Library at: <http://AskJAN.org/training/library>. If you have any questions please contact Belen Burkhalter at bcburkhalter@okdrs.gov.



The **TAHRA College Relations Committee** will be holding an HR professional job shadowing event the last week in February (20-24). We would like to pair up local college students who are interested in pursuing a career in HR in the Tulsa area after graduation with interested Tulsa companies. We are looking for HR professionals from local Tulsa companies to allow college students to shadow them for a couple of hours. This would be a great opportunity for your company to gain free valuable exposure to upcoming college graduates who will be interviewing for entry level HR positions in the near future. If your company is interested in participating please contact Kasi McLaughlin at kasi.mclaughlin@sbcglobal.net or 918-850-2795.

Talent Pipeline & Development = Competitive Advantage

by Denise Reid, Chamber Liaison



We have been hearing from employers in all sectors about the struggles to find skilled talent. Our community has been working together on several initiatives to create more programs and services to meet the needs of our local employers. February 1st was the grand opening for Transportation Connections WorkAdvance program. This is a sector driven training and development program for the transportation industry. This program was brought to our community through a consortium of partners including; City of Tulsa, Tulsa Community Foundation, Tulsa Metro Chamber and Workforce Tulsa. It has become very clear that collaboration, coordination and leveraging of resources will be necessary to improve our region's talent pipeline. Below is listing of meetings that will occur in the near future or have recently occurred to provide more understanding of how we can work together to create better alliances for our skilled workforce of the future.

Council for Adult & Experiential Learning - Business & Industry Partners Meeting

February 10th - 8:30 to 10:30a.m.

Tulsa Metro Chamber offices - Williams Tower II

RSVP to sharongoswick@tulsachamber.com

Topics of discussion

- Ensure our region has a skilled and job ready talent pipeline to satisfy current and future needs of area businesses- Career pathways tied to education, training and workforce systems
- Identify how to create more value for businesses tied to company training and learning resources
- Tuition reimbursement
- Staff development
- Succession planning
- Offer guidance for the education and workforce systems to operate more effectively and meaningfully
- Map internal training and workplace learning to college courses and degrees

Tulsa Area Employer Council Meeting - Employer's Toolkit for Hiring

Veterans

February 14th - 8:30-10:00

Doubletree Downtown

Presented by: Kenneth Allen, Assistant State Director for the U.S.

Department of Labor

RSVP to (918) 796-1200

Oklahoma Department of Commerce and Governor's Council for Workforce & Economic Development Career Pathways Committee Meetings

- Working group of education, workforce system and employers identifying regional needs for connecting students and adults to careers tied to community employers and demand occupations.
- Identifying career pathways through training programs and needs to build capacity to meet the demands of business and industry.

2012 Career Services Summit

Meeting held with 11 local higher education partners career services professionals, small business council, Tulsa's Young Professionals and workforce division a the chamber to better understand how we can work together to create more internship opportunities tied to our small business community. Updated internship guide is being finalized as tool and resource for business interested in starting an internship program as a companion piece on the www.InternInTulsa.com website. This is a no cost resource for posting internship opportunities.

Tulsa Collegiate Job Fair - All College Career Consortium

April 4 - 1:00 to 4:00p.m.

Donald W. Reynolds Center

If you are an employer and would like to attend this event that includes nine area schools, please call (918) 631-2896 for more information.

If you would like additional information about any of these meetings of programs of work please contact me at denisereid@tulsachamber.com or (918)560.0255.

Calendar of Events

February

15 - February Program Meeting - [Absenteeism and Leave Issues: Tips for Preventing Abuse](#)23 - February Learning Lab - [ADA Updates: How to Comply with the New Regulations](#)

Tulsa Area Human Resources Association

admin@tahra.org

(918) 344-4622

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