Volume 7 : Issue 5

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Highlights of
2017 ARSHRM
Conference & Expo
and
2017 MSSHRM
Conference & Expo

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Statistics

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the ACA's
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Mary Ila Ward,
SHRM-SCP, SPHR
Director-Elect,
2017 ALSHRM

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Predictive
Scheduling:
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ELIMINATE DISTRACTIONS KEEP EMPLOYEES FOCUSED AND MITIGATE RISK WITH ONE BENEFIT

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Annual SHRM Conference in New Orleans - Ads and article due by May 10

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note from the editor

(L-R) Sherry Johnson, SHRM-SCP, SHRM Field Services Director, Tara Mauk Arthur, SHRM-CP, PHR, Cynthia, Michele Burns, SHRM-SCP, SPHR, at the ARSHRM Booth at the 2017 ARSHRM Conference & Expo in Hot Springs.

We were delighted to kick off the Spring Conference season as an official media sponsor for the **Annual SHRM-Atlanta HR Conference March 29-30** at the Cobb Galleria. It was great seeing **Dorothy Knapp, SHRM Field Services Director**; and **Jeanne Artime, SHRM-Atlanta CEO**. It was also exciting meeting Kimberly Douglas, SHRM-Atlanta Board Chair. April was an exciting month with the **22nd Annual MSSHRM HR Conference & Expo in Tupelo April 3-5**. Next we headed to the **ARSHRM HR Conference & Expo in Hot Springs April 5-7**. We always enjoy staying for the weekend races at Oaklawn. Be sure to check out all the highlights from these outstanding conferences in this issue.

I especially enjoyed presenting the three-hour preconference **Strategic Leadership Workshop for HR Executives** at the **MSSHRM Conference & Expo**. Attendees earned 3.00 business credits and 3.00 SHRM PDCs at the Workshop. May 16-17 we will be in Birmingham covering the **2017 ALSHRM Conference & Expo** for the first time. The Conference Agenda is on Page 6. We will be bringing you live updates from the conference on Facebook, LinkedIn and Twitter @cythomps. Don't miss a minute of this exciting new event!

On May 10, we will be at the **WTSHRM 7th Human Resources & Employment Law Spring Conference** in Jackson, TN. I am honored to be keynote speaker at the **St. Lucie County and Treasure Coast Human Resources Associations in Florida** on May 19. We will be covering the **Mississippi Business Group on Health** meeting in Jackson, MS, on May 24. So May will be another exciting month!

Watch your email for our next complimentary **HRCI |SHRM Virtual Event** sponsored by **Data Facts on May 9**. The topic is the "**The Art and Science of Delegation**." Watch your email for your invitation! If you are not currently receiving our monthly invitation, you can subscribe on our website at www.hrprofessionalsmagazine.com.

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Mary ILA WARD

MARY ILA WARD, SHRM-SCP, SPHR

Mary Ila Ward currently serves as the Director- Elect for the Alabama SHRM State Council and will assume the role of Director in 2019. She served as Alabama SHRM State Council Certification Director where she helped navigate the new SHRM certification program. Mary Ila has also served as Certification Director for TVC-SHRM. In addition, she has also served as VP of Programs for TVC-SHRM and VP of Membership for NASHRM.

Mary Ila Ward has over 10 years of experience in corporate recruiting, economic and workforce development, talent management and leadership coaching and training. She founded Horizon Point Consulting in 2011 with a drive to move the workplace forward through innovative people practices. She helps employers and communities focus on growth by challenging leaders to push the limits through forward thinking cultures and practices that are grounded in sound research and science.

A huge believer in work-life integration, Mary Ila helps organizations realize how they can hire for fit while improving diversity, engage employees by supporting them holistically, and drive home the importance of career development to communities and organizations. As a lifelong learner, she engages in speaking and writing on topics that are important to moving human resources and talent management forward.

Mary Ila graduated from The University of Alabama, summa cum laude, with a Bachelor's Degree in Business Management and rounded out a formal education with a Master's in Industrial and Organizational Psychology, where her thesis focused on leadership emergence. In addition to her certifications in Human Resources, she is also a Global Career Development Facilitator (GCDF) and Career Development Facilitator (CDF) Instructor. ■

2017 Alabama SHRM State Conference
Pending 10.25 HRCI and SHRM Credit

Tuesday, May 16 | Conference Day 1

Conference Registration
11:00am - 6:00pm ..... Escalator/Lobby

Session 1: What Plaintiff attorneys look for to succeed in an employment law case! Presented by: Heather Leonard, P.C.
1:00pm - 2:15pm ..... BJCC

Session 2: 2017 Employment Law Update Presented by: Matthew Cannova, Maynard Cooper & Gale, PC
2:30pm - 3:45pm ..... BJCC

Session 3: 2017 Legal Roundtable and Discussion Presented by: Maynard Cooper & Gale, PC
4:00pm - 5:30 pm ..... BJCC

ALSHRM 2017 Marketplace Event and Networking – Cocktail Hour
5:45pm - 7:00pm ..... BJCC

Wednesday, May 17 | Conference Day 2

Conference Registration
6:30am - 8:30am ..... Escalator/Lobby

Breakfast
7:00am - 8:15am ..... BJCC

Welcome & Announcements
8:15am - 8:30am ..... BJCC

Opening Keynote: Peter Frampton - Color Accounting for HR Professionals
8:30am - 9:45am ..... BJCC

Marketplace and Networking Break
9:45am - 10:00am ..... BJCC

Concurrent Sessions
10:00am - 11:15am
- Agile HR How To | Presented by Mary White ..... East N-O
- How To Avoid a DOL Audit | Presented by TASC ..... East K-L
- A New Era in Compensation - How to be Innovative and Forward Thinking | Presented by Pam Murray ..... East M

Marketplace and Networking Break
11:15am - 11:45am ..... BJCC

Lunch & Lunch Keynote: Jill Christensen – If Not You, Who? How to Crack the Code of Employee Disengagement
11:45am - 1:00pm ..... BJCC

Marketplace and Networking Break
1:00pm - 1:15pm ..... BJCC

Concurrent Sessions continued
1:15pm - 2:30pm
- Fiduciary Responsibilities under ERISA | Presented by David Joffee,, Partner, Bradley ..... East N-O
- How to Set up a Successful College Recruiting Program | Presented by Kristina Minyard / Jilian Miles ..... East K-L
- Thought Leadership HR Mega Trends | Presented by Mitch Maddox & Sponsored by Ultimate Software ..... East M

Marketplace and Networking Break
2:30pm - 2:45pm ..... BJCC

Closing Keynote Speaker: Tim Sackett – What Your CEO Wishes HR Would DO!
2:45pm - 4:00pm ..... BJCC

Closing Comments and Door Prizes
4:00pm - 4:45pm ..... BJCC

Register online at alshrm.org & Follow us on Twitter at @ALSHRM and #alshrm17

Join us for our 2017 conference on May 16-17th at the Birmingham-Jefferson Convention Complex, Alabama's largest meeting complex. Each year the event attracts over 500 human resource professionals and vendors throughout the state of Alabama and across the nation. Participants represent virtually every industry and companies ranging from small businesses to large industrial centers. Programs presented at the annual conference cover all aspects of the SHRM Body of Knowledge.

FULL CONFERENCE REGISTRATION

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- ALSHRM marketplace event and networking,
- Breakfast, lunch, and opening reception.

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MARCH 29-30, 2017
COBB GALLERIA CENTRE
ATLANTA, GA

AFFILIATE OF SHRM SOCIETY FOR HUMAN RESOURCE MANAGEMENT

HIGHLIGHTS

1 Kimberly Douglas, SHRM-SCP, SPHR, is 2017/2018 SHRM-Atlanta Board Chair. She welcomed everyone to ***SOAHR 2017.*** **2** Jeanne Artime, SHRM-Atlanta CEO assisted with the Impact Award presentations. Jeanne also spoke at an earlier breakout session on "Reaching New Heights with Your SHRM-Atlanta Membership." **3** Lisa Hughes, SHRM-SCP, SPHR, GPHR, 2016/2017 President of SHRM-Atlanta, provided a chapter update.

4 Elissa O'Brien, SHRM-SCP, VP Membership for the Society for Human Resource Management, provided an update on Society for Human Resource Management initiatives. **5** Holly Bail, ***SOAHR 2017*** Conference Chair provided an overview of the Conference agenda. **6** Lynne Zappone, Chief Talent Officer for Popeye's Louisiana, was the keynote speaker on Wednesday, March 29. Her topic was "Tales of an Accidental CHRO: A Surprising Journey to Leading Teams, Building Cultures and Delivering Business Results." **7** Crystal Kadakia, CEO and Founder of Invati Consulting LLC was a keynote speaker on "Transforming Millennial Myths into Workplace Breakthroughs."

8 Caught a photo op with a few members of the SHRM-Atlanta Board of Directors following the opening general session. (L-R) Kimberly Douglas, SHRM-SCP, SPHR, SHRM-Atlanta Board Chair; Jeanne Artime, SHRM-Atlanta CEO; Cynthia Thompson, Editor/Publisher HR Professionals Magazine; Lisa Hughes, SHRM-SCP, SPHR, GPHR, 2016/2017 SHRM-Atlanta President; Christine C. Browning, SHRM-CP, PHR, 2018 SHRM-Atlanta President-elect.

The SHRM-Atlanta Impact Awards

The annual SHRM-Atlanta IMPACT Awards (formerly Pegasus Awards) recognize individual teams in the profession of Human Resources whose actions or initiatives have demonstrated outstanding impact and benefit – above and beyond normal expectations – to their business or the community. Nominees and their initiatives reflect significant contributions through IMPACT: Innovation, Motivation, Performance, Achievement, Creativity or Transformation in the work being recognized. SHRM-Atlanta Chair of the Board of Directors, Kimberly Douglas, SHRM-SCP, SPHR, presented the awards to the winners.

9 Kimberly Douglas and Matthew Owenby, Senior Vice President, Chief Human Resources Officer at Aflac. **10** Janet Thomas, Director of Organizational Development, Genuine Parts, and Kimberly Douglas. **11** Kimberly Douglas and Bill Garrett, SPHR, Director of Human Resources, Peachtree State Truck Centers, LLC.

12 Jo Anne, Hill, PMP, SWP, Aflac Director of Diversity and Employee Engagement, and Kimberly Douglas. **13** The HR Team at the Georgia Department of Revenue and Kimberly Douglas.

14 Dorothy Knapp, SHRM-SCP, Director of Field Services for SHRM, discussed the new SHRM certifications. She announced that over 100,000 HR professionals are now certified globally. **15** The SHRM-Atlanta booth at the Resource Partner Showcase. **16** Greg Hare, managing shareholder of Ogletree Deakins-Atlanta with Lisha Stuckey, office administrator. Greg spoke on "A Best Company's Guide to Handling Harassments Allegations"

ALSHRM

The Rock Hound and the Diamond Cutter

By PAULA WATKINS

With unemployment reportedly at 4.9% nationally HR Professionals everywhere are being asked for guidance and assistance in recruiting efforts. Our company, a Professional Employer Organization (PEO), has never been more involved in posting jobs, interviewing and referencing candidates for our clients. In July we offered 10 webinars on where to find applicants and how to attract them. However, at the same time we did an assessment of several of our clients and we found that lower unemployment and scarcity of available job-seekers seems to have impacted turnover by ZERO.

One hotel client had lost 85 housekeepers since the first of the year. 85 individuals applied for work, made out the paperwork, interviewed, passed a drug test and a background check and walked right out the door after starting the job. Another client had 47 restaurant workers leave during the same timeframe. While these were on the extreme side of turnover examples, many of our clients were continuing to experience very high turnover and attendant difficulty replacing the departed workers.

Between 2008 and 2015 while job searchers exceeded the number of opportunities, many businesses functioned as if workers are expendable and easily replaced. This has been especially true where skill level and wages are minimal. In our company we are trying to change those cultures; management cannot afford to harbor an approach to people that holds the workforce in low regard. Actually, when management does not value people (regardless of the unemployment rate) the entire workforce mirrors that perception.

One of our Regional Human Resource Managers developed a training program likening employee recruitment to Rock Hounding Truths.

1. You have to know where to look.
2. You need to go where the rocks are.
3. You have to know what you are looking for in the rough.
4. You have to be able to recognize potential.
5. You have to be willing to invest time and effort.
6. You are looking for potential, not perfection.
7. A blemish or imperfection is not a bad thing; it doesn't negate the entire value of the rock.
8. Variety and diversity occur naturally.
9. Some rocks do well being cut and polished while others do not.
10. You can learn a lot from other Rock Hounds.

Obviously, people are not rocks but many of the analogies work.

On the other hand, there is the Diamond Cutter Standard. Businesses that hold managers and supervisors to Diamond Cutter Standards hold managers and supervisors accountable for retention. Bonuses and performance reviews reflect the manager's and supervisor's ability to retain and develop employees. Each manager and supervisor is provided training on topics such as:

- How to Motivate Your Workforce
- How to Reward and Recognize Employees
- Is Your Workplace Engaging Your Workforce?

One of the best guidelines for evaluating whether your workforce is engaged can be found in *First Break All the Rules* by Marcus Buckingham and Curt Coffman. This book was published by Simon and Schuster in 1999 yet remains a mainstay for evaluating employee engagement. If managers and supervisors could begin by just discussing the core questions (underlined below) that Buckingham and Coffman pose, they would likely develop some understanding of the managers' and supervisors' roles in developing people. Diamond Cutters approach the project with the employee as the focal point.

Do I know what is expected of me at work? Does the mission/purpose of my company make me feel my job is important? A long time ago I had a receptionist working for me who had started as a file clerk before being promoted. One day about **six months** into her employment she answered the phone, put the person on hold and told me that the person on the line wanted to know what our company did. We shouldn't presume that people know what the company does. We need to take the time to help them understand the importance of their individual contribution. Workers need to know how what they do fits into the overall purpose of the company.

Do I have the materials and equipment I need to do my job? Again it is amazing how much you learn from employees by speaking with them. Since we sometimes do not know how to do the jobs at which our employees work, we may presume they are equipped with all the tools to do their jobs; materials, machinery, motivation, knowledge and training. It can be an interesting exercise to ask an employee to show a manager how they approach and complete tasks. It can be a real eye-opener from **both** perspectives to learn what efficiencies can be applied or to respect how onerous a particular assignment may be.

At work, do I have the opportunity to do what I do best every day? Are my co-workers committed to doing quality work? How do we

know what our employees do best? It's back to communicating. We have to find out about our employees and their skills, experience and knowledge. Spending time with an employee reveals that they have all types of interests and backgrounds; resources upon which businesses can tap in on.

In the last seven days, I have received recognition and praise for doing good work? Obviously, employees know when praise is genuine and recognition is deserved. Many employees are good workers every single day. Praise can be for putting in a good solid day's work or, it can be for something specific. Writing a quick note or singling someone out for a specific contribution or perhaps for taking on additional responsibility shows employees that you are paying attention.

Does my supervisor, or someone at work, seem to care about me as a person? Do I have a "best friend" at work? Some managers and supervisors believe that employees get paid to do the job and what matters are production and the bottom line. Yet, there is clear indication that a workplace in which the employees are engaged renders MORE bottom line. If that is the case, why wouldn't managers and supervisors care about their employees as people? Managers and supervisors don't have to solve personal problems but there should be some modicum of interest shown. I am ashamed to admit that I once had an employee (who had reported to me for over a year) ask me if I knew how many children she had. "Two?" I guessed.

Is there someone at work who encourages my development? In the last year, have I had opportunities at work to learn and grow? In the last six months, has someone at work talked to me about my progress? Not all rocks are meant to be cut or polished but people can frequently be more than how we find them "in the rough". Unlike rocks we have to engage (talk to) our employees to understand what they are interested in and how we can develop their talents. Development does not always relate to the workplace. Employers can promote outside education and civic leadership. Internal and external training, education and community involvement help employees evolve into more valuable and productive employees.

At work, do my opinions seem to count? Wow! Imagine a workplace with employees who care enough and are engaged to such a degree that they offer suggestions and opinions for the betterment of the workplace, the product, the process, for customer service, better delivery and customer retention. Good managers and supervisors learn how to foster interactive communication and contribution.

This is not touchy-feely HR stuff; turnover is expensive in real dollars, in quality customer service and relationships, in the loss of intellectual capital, in production. Low unemployment rates do not have to translate into a lack of good, valuable and valued employees. One path is to run ads, hold job fairs, interview on a continuous basis, constantly train new hires OR spend the same amount of effort retaining the employees who are already with you. Herein is the difference between the Rock Hound and the Diamond Cutter. The Rock Hound is always looking for new stones to work with; always digging. The Diamond Cutter takes the stones and turns them into treasures to keep.

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SHRM-MEMPHIS

2017 SHRM-Memphis Half-Day Legal Seminar

March 21, 2017
at the Double Tree Hotel

1 Tisch McDaniel, 2016-2017 President of SHRM-Memphis, welcomed attendees to the annual Half-Day Legal Seminar. **2** Jeff Weintraub, Regional Managing Partner at Fisher Phillips, presented "The Trump Effect: The Top 10 Workplace Law Developments to Expect from the Trump Administration." **3** Lisa Lichterman with Littler Mendelson, P.C., discussed "Accommodating Leave."

4 John Simmons with Littler Mendelson, P.C., co-presented the presentation on "Accommodating Leave" with Lisa Lichterman. **5** Robbin Hutton and Bud Holmes, attorneys with FordHarrison, LLP, presented "Best Practices for Effective Workplace Investigations: Do's and Don'ts and All That Goes On In-Between."

6 Thomas L. Henderson, Managing Shareholder of Ogletree, Deakins, Nash, Smoak, & Stewart, P.C. in Memphis; and **7** Kim Hodges, Shareholder, with Ogletree Deakins, headed up the closing session. Kim spoke on "Antitrust Laws for Human Resource Professionals." Tom followed with his presentation on, " Recent Developments at the NLRB."

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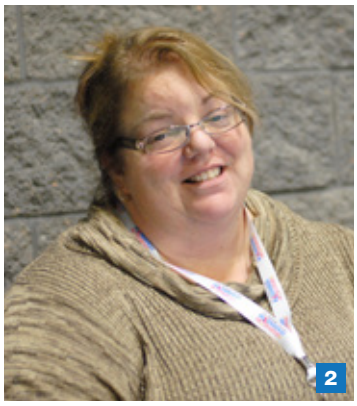
ARSHRM 2017

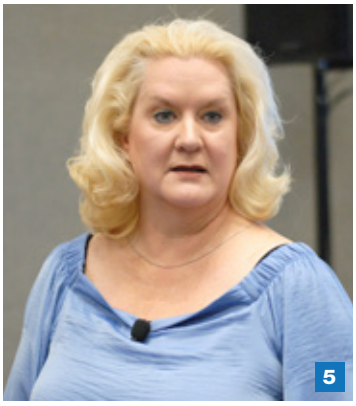
LEGENDARY LEADERSHIP

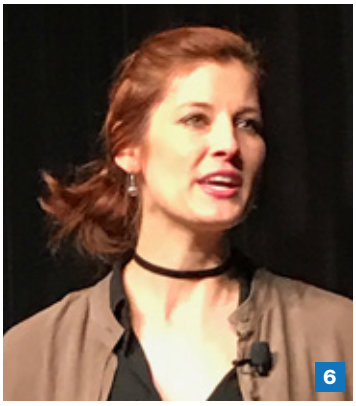
POWER OF THE PAST ★ FORCE OF THE FUTURE ★ APRIL 5-7

Highlights of 2017 ARSHRM Conference & Expo in Hot Springs



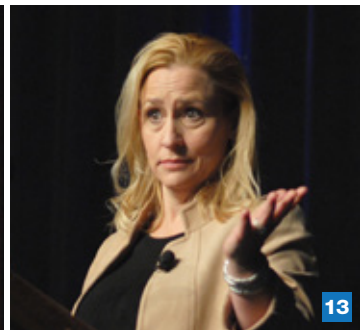
1 Cammie Scott, SHRM-SCP, SPHR, Chair of the 2017 ARSHRM Conference & Expo, welcomed attendees to the Conference in Hot Springs. The theme of this year's Conference is "Legendary Leadership: Power of the Past and Force of the Future." **2** Cathleen Hoffman, SHRM-SCP, SPHR, is Director of the ARSHRM State Council. Cathleen was Chair of Vendor Relations. **3** The 2017 ARSHRM State Council. (L-R) Jill Hilton, SHRM-SCP, SPHR, 2017 ELLA Conference Chair; Holley Little, Chapter Advocate Director; Susan King Meadors, SHRM-CP, PHR, State Legislative Affairs Director; Michele Burns, SHRM-SCP, SPHR, Immediate Past Director; Donna Merriweather, SHRM-SCP, SPHR, Director-Elect; Georgette Ferus, SHRM-CP, PHR, 2017 Leadership Conference Co-Chair; Cathleen Hoffman, SHRM-SCP, SPHR, 2017 Director; Sara Castillo, Allison Ramsey, SHRM-CP, PHR, Membership Engagement Director; Shannon Walker, President of the Western Arkansas HR Association; Kelli Hernandez, Communications and Award Director; Sunshine Bartlett, SHRM-CP, PHR, Certification Director; Judith Tavano, SHRM-CP, PHR, Workforce Readiness Director; and Wayne Young, General Legal Counsel

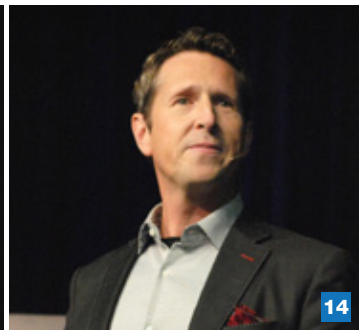




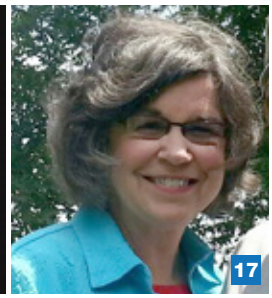
4 The 2017 ARSHRM Conference & Expo Committee. (L-R) Cammie Scott, SHRM-SCP, SPHR, Chair; Georgette Ferus, SHRM-CP, PHR; Amy Fisher, Finance; Holley Little, Facilities; Sheila Moss, SHRM-SCP, SPHR, Programs; Sara Staley, SHRM-CP, PHR, Communications; Allison Ramsey, SHRM-CP, PHR, Registrations; Michele Burns, SHRM-SCP, SPHR, Volunteers. **5** Sheila Moss, SHRM-SCP, SPHR, was Chair of Programs for the 2017 ARSHRM Conference & Expo. Sheila also led a Rise and Shine session on "Are You Ready for the New I-9 Form?" **6** Autumn Manning was the keynote speaker for the opening general session. Her topic was "Culture, Engagement, and Finally Seeing the ROI You Need." She is co-founder and CEO of YouEarnedIt, a technology company based in Austin, TX.

7 The keynote luncheon speaker on Wednesday was Pandit Dasa, a former monk, who spoke on "Principles of Mindfulness." He led the attendees in a period of meditation. Pandit was also a concurrent speaker. He is author of the book, "Create a Mindful Culture." **8** Elise Mitchell, author of "Leading Through the Turn," was the keynote speaker on Wednesday afternoon. She is the former CEO of Mitchell Communications, now Dentsu Aegis Network. **9** Steve Gilliland was the keynote luncheon speaker on Thursday. His presentation was called, "Follow Me." He is one of the most sought-after and top-rated speakers in the world. Steve is also the author of "Enjoy the Ride", "Making a Difference", "Hide Your Goat", and "Detour." **10** An attorney panel with Rick Roderick, with Cross, Gunter, Witherspoon & Galchus, P.C.; Wayne Young, with Friday Eldredge & Clark LLP, and Stuart Jackson with Wright, Lindsey & Jennings LLP, led a discussion on the impact of medical marijuana in the workplace in Arkansas. Tim Orellano, PHR, President of The Human Resources Team, was the facilitator.





11 Kathleen McComber, SHRM-SCP, SPHR, was a keynote speaker on Wednesday. She spoke on "Leadership and Self-Awareness." Kathleen is a Past ARSHRM Director (1989-1980.) She is currently President at The Heart Group. She was previously Assistant Vice Chancellor for Human Resources with the University of Arkansas for Medical Sciences for 14 years. **12** Bruce Cross was the Opening Session speaker on Friday morning, a director with Cross, Gunter, Witherspoon & Galchus, P.C. His topic was "Sex, Drugs and Rock 'n Roll." **13** Leslie Rutledge was a keynote speaker on Friday morning. She discussed the role of her position as Arkansas' State Attorney General. Leslie is the 56th Attorney General of Arkansas and the first woman elected to the office. **14** Jon Petz, author, motivational speaker and business magician, was the final keynote speaker on Friday. His presentation was "Deliver Significance – in Simple Moments."

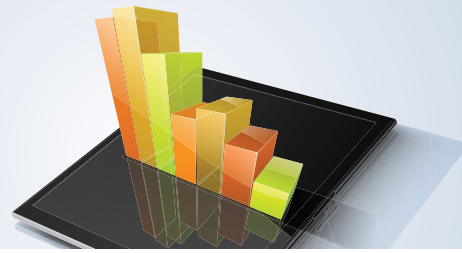


15 Minnie Lenox is the recipient of the **2017 Arkansas SHRM Outstanding HR Professional of the Year Award**. She is the Human Resource Director at the City of Hot Springs. (L) Sherry Johnson, SHRM-SCP, SHRM Field Services Director for Arkansas, and (R) Donna Merriweather, SHRM-SCP, SPHR, is Arkansas SHRM State Director-Elect. Minnie has almost 40 years of experience in the HR profession, serving as a trainer, HR professional, leader and volunteer. The award recognizes the individual that has shown outstanding service and has promoted the profession of Human Resource Management. **16** Sara Castillo is the recipient of the **2017 ARSHRM JC Cote Scholarship**. The award was presented by (L) Sherry Johnson, SHRM-SCP, SHRM Field Services Director for Arkansas; and Lesa Brosch, SHRM-CP, PHR, College Relations Director. The ARSHRM State Council awards a $1000 scholarship to a college student who has demonstrated scholastic achievement and a commitment to a career in human resources. **17** Sherie Combs was the recipient of the **2017 Arkansas SHRM Jim Wilkins Lifetime Achievement Award**, which recognizes an individual who has shown outstanding service and has promoted the profession of Human Resource Management throughout their career. Sherie is HR Manager for East Arkansas Area Agency on Aging. Steve Schulte presented the award. Cherie was unable to attend the conference.

18 H. Wayne Young, Partner with Friday Eldredge & Clark LLP, received the **2017 ARSHRM Russell Gunter Arkansas HR Legislative Advocacy Award**. He is pictured with Tim Orellano, PHR, President of The Human Resources Team. The award recognizes outstanding contributions of time and effort in local, state or federal legislative advocacy on behalf of the Human Resources profession. Wayne currently serves as General Counsel to the ARSHRM State Council. **19** Josh Rucker and Brittany Wright of UA Little Rock are the winners of the Arkansas SHRM Student Games held during the 2017 Arkansas SHRM HR Conference & Expo.

EEOC 2016 STATISTICS AND ENFORCEMENT GUIDANCE: TRENDS TO WATCH

By ANNE T. MCKNIGHT



At the end of each fiscal year, the EEOC releases statistical data about the charges it received for that year, the action taken with regard to those charges, and the enforcement action or litigation the agency ultimately pursued. Employers can use this data in conjunction with the EEOC's Enforcement Guidance to glean important information about relevant trends and how the federal agency is trying to further its agenda. In looking at the 2016 EEOC annual report (which can be accessed at www.eeoc.gov), several interesting points emerge. Primarily, ongoing reports of retaliation and harassment have led the EEOC to focus additional attention on ways to combat those issues. Further, while the number of EEOC lawsuits has decreased in recent years, the EEOC is clearly trying to find ways to have the greatest impact through the use of systemic investigations and multiple-victim litigation.

2016 TRENDS

After hovering just under the 100,000 charge mark from 2010-2012, the number of total charges filed with the EEOC dropped to 88,778 in 2014. However, for the second year in a row, the number of total charges has increased. Specifically, charges went up from 89,385 in 2015 to 91,503 in 2016.

Retaliation

Despite the ebb and flow of total charge numbers, retaliation charges have generally seen increase after increase over the past 16 years. Retaliation is the most common charge made with the EEOC. In 2016, it was included in 46% of all charges. Therefore, the EEOC's renewed focus on retaliation is not surprising. In August 2016, the EEOC issued its *Enforcement Guidance on Retaliation and Related Issues,* which advances a broader application of anti-retaliation laws.

For instance, under the Guidance, protected participation activity includes internal EEO (Equal Employment Opportunity) complaints made before a discrimination charge is actually filed with the EEOC. This is significant because, unlike with opposition activity, an employee need not reasonably believe that unlawful discrimination actually occurred for his or her participation activity to be protected. The new EEOC Guidance also implements a broader definition of opposition conduct. According to the Guidance, opposing an unlawful practice can be inferred from any circumstances that show the individual intended to convey opposition or resistance to a perceived EEO violation. Simply asking about compensation is identified as protected opposition activity. Additionally, while the EEOC acknowledges that opposition activity is only protected if the manner of opposition is reasonable, the proposed Guidance would make it extremely difficult for an employer to ever establish that an employee's conduct was so outrageous that it loses the protection of federal anti-retaliation laws. For example, the EEOC states that protected opposition activity may include engaging in a production slow-down, writing critical letters to customers, or protesting against discrimination in an industry or society in general – without any connection to a specific workplace – even if that conduct causes the employer financial harm.

Further, under the Guidance, an employee may prove a causal connection (that the challenged employment action would not have occurred "but for" the desire or intent to retaliate) by presenting a "convincing mosaic of circumstantial evidence" from which retaliatory intent can be inferred. Such a mosaic may include evidence of suspicious timing, evidence that a similarly situated employee was treated differently, past instances of retaliation, or any other "bits and pieces" that, when taken together, might suggest a retaliatory intent.

The EEOC's Guidance also points out that adverse action is broader in the context of anti-retaliation than under other nondiscrimination provisions. From a retaliation standpoint, adverse action is any action that might deter a reasonable person from engaging in protected activity. It need not have a tangible effect on the individual's employment, and it need not actually deter the individual from engaging in protected activity — it only has to have the potential to do so.

Given the frequency and consistent increase of retaliation charges and the EEOC's recent efforts to expand anti-retaliation laws, the stage is set for an uptick in retaliation charges and litigation. It is imperative for employers to proactively assess their exposure for such claims and to take steps to counteract retaliatory animus or even the appearance of such.

Harassment

The EEOC is also troubled by the pervasive and consistent problem of harassment in the workplace. Workplace harassment allegations were included in nearly 31% of all charges in 2016. In June 2016, an EEOC task force released a *Study of Harassment in the Workplace,* a report of the task force's findings following a fourteen-month study. The report, available at www.eeoc.gov, calls for employers to "reboot" harassment prevention efforts, and provides recommendations for prevention strategies.

The proposed solutions from the EEOC study include a revamping of workplace culture through leadership and accountability, beginning with a top-down approach. The study urges employers to assess their workplaces for the risk factors associated with harassment and hold mid-level managers and supervisors accountable for preventing and responding to grievances.

The report suggests that employers be wary of "zero tolerance" anti-harassment policies, as these policies may contribute to under-reporting of harassment, especially in situations of relatively minor harassing behavior. The study suggests that abandoning zero tolerance policies in favor of more proportionate discipline will likely encourage employees to report workplace incidents. In turn, management will have the opportunity to tackle and proactively design future anti-harassment training.

Further, the report highlights the importance of compliance training and the components to make such training successful. Training should shift from a legal compliance-focused approach to a preventative-driven teaching that is supported at the highest levels and routinely evaluated. In particular, the report highlights workplace civility training and the less-common "bystander intervention" training. Workplace civility training focuses on positive interactions and respect in the office that transcends federally protected classes (such as race, color, national origin, religion, sex, age and disability); while bystander intervention training empowers the individual to speak up when they witness harassment. The study suggests an interactive approach to training may be more effective.

EEOC ENFORCEMENT & LITIGATION

In 2016, the EEOC continued to spend a significant portion of its resources on investigating and litigating systemic discrimination, which the EEOC defines as involving "pattern or practice, policy, and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company or geographic location." In fact, one of the EEOC's performance goals was to increase the proportion of systemic cases on the EEOC's litigation docket to 22-24%. In 2016, the EEOC exceeded that goal, as 28.5% of its active litigated cases were systemic. Employers should be aware of this priority, as the likelihood of a reasonable cause finding increases significantly when systemic allegations are involved. While the EEOC finds reasonable cause in less than 5% of all charges filed, in 2016, over 41% of systemic investigations resulted in a reasonable cause finding.

According to the EEOC's annual report, it resolved 21 systemic cases, "six of which included at least 50 victims of discrimination and two of which included over 1,000 victims of discrimination," and obtained $38 million in damages. Some of these cases involved allegations of failure to hire based on sex, subjecting applicants to unlawful inquiries into medical or genetic information, and maintaining inflexible leave policies that denied reasonable accommodations for individuals with disabilities. The EEOC has acknowledged that systemic investigations will remain a priority.

Another interesting statistic from the annual report is the reduction in the number of lawsuits filed by the EEOC. From 2000 to 2011, the agency filed anywhere from 250 to 438 lawsuits each year. However, beginning in 2012, that number dropped into the 122 to 142 range. In 2016, the EEOC filed just 86 lawsuits. However, while the overall number of lawsuits dropped by 35% from the number filed in 2015, the number of systemic lawsuits increased from 22% to 28.5%. Twenty-nine of the 86 lawsuits involved multiple victims or discriminatory policies, while the remaining 58 involved individual lawsuits. Many suspect the EEOC may trend toward pursuing more systemic cases that have a higher success rate and where it can achieve more monetary recovery, representation of more individuals, and can ultimately seek a greater impact.

Of the lawsuits filed by the EEOC, it is worth noting that nearly 42% (36 out of 86) involved claims under the ADA (Americans with Disabilities Act). This represents a 5% increase from 2015, and highlights the expectation that disability discrimination and related litigation will remain a high priority for the EEOC.

CONCLUSION

Employers who want to maintain an optimal and respectful working environment and who want to minimize liability for noncompliance with EEO laws, should continue taking as many preventative measures as possible by developing appropriate policies, regularly training managers and supervisors, conducting timely and appropriate investigations into reports of misconduct, and taking necessary action to address discriminatory and harassing behavior. Employers should also consider consulting with legal counsel as needed to develop strategic plans for safeguarding against and correcting discrimination and harassment in the workplace. These actions not only promote a legal and positive workplace, but may also keep your organization from becoming a 2017 statistic.

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Is Affirmative Action still Necessary with Increasing Globalization?

By ANGIE SMITH

It would seem that as more and more people move to capitalistic countries, diversity is resolving itself in the need to attain diversity initiatives found within Affirmative Action Plans. One might even question the need for such harsh parameters in the world of equal employment opportunity. Many critics state that Affirmative Action only encourages racism in the workforce and even educational institutions. "I want to hire the most qualified person" screams the business owner, "not just another quota!" And, with this attitude, many have sought to try a neutral route, but found that it doesn't work. In a very recent court case, June 2016, Fisher v. University of Texas (No. 14-981), the Supreme Court ruled Texas had constitutionally considered race to meet diversity objectives in student admissions. Months of study within this University concluded that the use of race-neutral policies had not been successful in achieving racial diversity. So, we learn that when employers are "of choice" diversity brings inclusion and this presents an onion that has many layers. A huge part of our ethical and global responsibilities as EEO officers within Human Resources is to educate our hiring managers and key stakeholders that healthy parameters are needed to help guide us all in understanding other cultures, values, and career goals. To understand the complexity of this issue, we should start from the beginning.

In the United States, Affirmative Action, or Executive Order 11246, was signed in 1965 to protect individuals with respect to race, color, religion, and national origin. Then, in 1967, sex was added. Disability was included in 1973, via Section 503 of the Rehabilitation Act. Affirmative Action was the moral and social obligation to amend historical wrongs and eliminate past discrimination. We simply needed a standard to compare our hiring efforts to. And, federal contractors are required to develop and maintain them, as a condition of doing business with the government. So, diversity initiatives were established as goals designed to measure acceptance of minorities by embracing cultural differences in the workplace. And, other countries have them too. South Africa has the Employment Equity Act of 1998, which covers black people, women, and disabled persons. Malaysia adopted New Economic Policy in 1971, and was succeeded by NDP in 1991. Brazil has the Law of Social Quotas (2012) in universities. United Kingdom has the Equality Act of 2010, which requires equal treatment in private and public service employment. Age, disability, gender assignment, marriage, and civil partnerships, race, religion or belief, sex, and sexual orientation are the protected classes in the U.K. Therefore, we can see that each country has been working with tenacity to establish healthy parameters in regard to diversity and inclusion. But, are they working by yielding the fruit they were planted to yield?

Workplace discrimination risks have been stated to be on the rise, despite continuous advances in anti-discrimination legislation. It has been predicted that the downturn in the global economy would lead to jobs loss crisis, where many needed jobs will go unfilled. This will lead to social unrest ((ILO), 2011). In the ILO's updated report of 2016, "World of Employment and Social Outlook," the main finding is the concerning rate of rising poverty in developed countries. The discrimination trends predicted in the 2011 report has continued to a concerning and worsened economic, social, and employment global condition in the 2016 report. So, if discrimination continues to be on the rise, why do Affirmative Action-like policies even matter? We must continue to question the methods of our measures as globalization affects economic, social, political, and employment factors.

What is globalization? Increased technology erodes physical barriers in working, enabling people to work from any location in the world. Globalization has made an individual's physical presence in the office less important. So, as people increase in contact, the potential for discrimination of all types also increases. America is a melting pot and we are based on immigration, coming from a rich history of discrimination. And, you might ask how current globalization is different compared to the migration that our ancestors have experienced. Current globalization is signified by the increased migration of people from the rich countries of the capitalist center to the poorer countries and territories of the peripheral world (Weisskopf, 2010). As these economic conditions prevail, the potential for persistent discrimination and equality will continue to challenge employers. We still need a standard to guide us through these changes. Affirmative Action-like policies are needed.

Therefore, Affirmative Action should be taught not as a compliance "bolt on" but an enabler to diversity work, exhibiting opportunity to examine pools. This examination will impact and reflect the communities that we serve (Dominguez & Sotherlund, 2010). As our applicant pools continue to grow by leaps and bounds due to globalization, we have to continue to build business cases that show economic advantages of diversity initiatives. Not just corporate sustainability and "good values," but good business. Candidates who are ready to work today are consumers who are ready to buy tomorrow (Labor, 1999).

To date, the Title VII protected classes are race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), and national origin. The EEOC also protects discriminatory practices involving age (40 or older), disability, and genetic information. We can expect more classes to be added in the future, which will ultimately affect our Affirmative Action plans. In the next century, any given country will be many faces and many races with no one majority group in the workforce. We must continue to tweak our EEO statements, which give rise to Affirmative Action guidelines. As change advocates in Human Resources, we have a responsibility to inspire leadership of ourselves and others by educating our business leaders of the economic value of enforcing and expanding these policies. It has been stated that "great leadership is about human experiences, not processes"(Secretan). Hence, our value will be amplified through guiding others to see the many perspectives of the ever-evolving diverse environments of which we work, play, and live.

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Fisher Phillips Memphis Office Regional Managing Partner Named to 'Top 100 Most Powerful Employment Attorneys' for 2017

Human Resource Executive Magazine Honors Memphis Labor and Employment Attorney

Jeff Weintraub, regional managing partner of Fisher Phillips in Memphis, has been selected to the "Top 100 Most Powerful Employment Attorneys" in the United States by *Human Resource Executive* magazine.

The list of influential employment attorneys was compiled on the basis of curriculum-vitae analyses, evaluations by clients and peers and reporting by the staff of *Lawdragon,* a media company and networking site for lawyers and clients. Weintraub was among three Fisher Phillips attorneys included in the overall list.

Throughout his career, Weintraub has represented employers in more than 59 jury and bench trials in the private and public sectors in employment-harassment/discrimination and retaliatory discharge lawsuits. He also handles Equal Employment Opportunity Commission charges, labor cases, wage and hour cases, and enforcing non-competes in all federal and state courts and agencies, various Courts of Appeals, and the U.S. Supreme Court. He has been included in The *Best Lawyers in America* since 1995, as well as Mid-South Super Lawyers for more than 10 years. Additionally, he has been listed in *Chambers USA, America's Leading Business Lawyers* since 2013.

Weintraub currently serves on the SHRM-Memphis Board of Directors, the Executive Board of the Chickasaw Council of the Boy Scouts of America and Memphis Orchestral Society Board. He is also the Chairman of the Small Business Council for the Greater Memphis Chamber.

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Presented by Fisher Phillips, in Partnership with SHRM Memphis

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- DOL Update: Wage & Hour Developments and What You Should Do Now
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SHRM-MEMPHIS

Living with the Affordable Care Act's **Uncertain Future**

By TIMOTHY KENNEDY

Given the Failure of Initial ACA Repeal Efforts and Ambiguity Surrounding Enforcement, Employers Subject to the Law Must, for Now, Continue Compliance Efforts or Risk Penalties

After the November 2016 election, with Republications in control of both Congress and the White House, prospects for the Patient Protection and Affordable Care Act (the "ACA") and its employer health insurance mandate looked dim. The Trump administration issued an executive order on its first day stating that it would "seek the prompt repeal of [the ACA]." By late March, however, the timeline for ACA repeal remained uncertain. On March 24, 2017, Speaker of the U.S. House of Representatives Paul Ryan told reporters that "Obamacare [the ACA] is the law of the land." Ryan later added, "we're going to be living with Obamacare [the ACA] for the foreseeable future."

Ryan's statements came after Republican leadership had promoted iterations of a bill, the American Health Care Act (the "ACHA"), that would have repealed significant portions of the ACA. This initial repeal effort ceased when Congressional Republicans and the White House failed to obtain an adequate number of Republican votes to approve the measure in the House of Representatives. The stalled bill would have repealed the ACA's individual and employer mandate penalties retroactive to January 1, 2016. This legislative action would have immediately granted affected employers more latitude in making decisions about offering coverage and setting employee premiums.

Repeal negotiations among Republicans have continued since Ryan's announcement. Indeed, as this article went to press, Congress had adjourned for an Easter recess, but not before Republican members announced more tweaks to the legislation intended to solidify support among their majority for the repeal bill. Based on media reports, these negotiations have not focused on the repeal of the individual or employer mandates, elements of the proposals that seem to have significant support among the Republican majority, but instead on aspects like restrictions on pre-existing condition exclusions, lifetime benefit caps, individual tax credits, and Medicaid expansion.

As Congressional machinations continue, public support for preserving some form of the ACA has increased. A poll conducted by Gallup in early April showed approval for the ACA rising to 55 percent among a random sample of American adults, up from 42 percent of those surveyed in November 2016. According to Gallup's report, about two-thirds of those surveyed in April favored keeping the law as is or with significant changes. This shift in public opinion, if sustained, makes repeal less certain.

The ACA Penalties Remaining on the Books Can Be Harsh, and Exchanges Have Collected Data Necessary to Impose Penalties

The ACA imposes potential penalties—described in the law as an "Employer Shared Responsibility Payment"—on "applicable large employers" that do not provide minimum essential medical coverage to full-time employees that is affordable and provides minimum value. "Applicable large employers" are generally employers that had an average of at least 50 full-time equivalent employees in the prior year. Each element of the compliance process can be daunting. For example, analyzing who is a full-time employee and analyzing whether coverage is affordable can be a particular challenge for businesses with variable hour, temporary, and seasonal workforces.

An employer that does not offer coverage that meets the minimum essential standards to at least 95 percent of full-time employees and their non-spouse dependents can face a penalty—sometimes called the "(a) penalty"—of $188.33 (adjusted annually for inflation) per full-time employee per month (less 30 full-time employees) if just one of those full-time employees purchases coverage through an exchange and receives a subsidy. Alternatively, if the employer offers minimum essential coverage to 95 percent or more of its full-time employees, but the coverage is not considered affordable or providing minimum value, the employer will be subject to a penalty—sometimes called the "(b) penalty"—of $282.50 (adjusted annually for inflation) per month for each full-time employee that receives subsidized coverage from an exchange for a month, with the total (b) penalty not to exceed the (a) penalty amount.

Starting in 2016, the Department of Health and Human Services began sending out notices to employers indicating that an employee had received subsidized exchange coverage. Although these notices were not penalty assessments—penalty assessments would come later from the Internal Revenue Service—the notices indicate that enforcement agencies are tracking this essential ACA penalty trigger. For the time being, employers should continue to appeal any of these notices that indicate that the employee provided inaccurate information in order to build a record against any potential future penalties.

The Effect of an ACA "Collapse" on the Employer Mandate Is Uncertain

In the wake of the initial repeal failure, both Ryan and Trump have characterized the ACA as "collapsing" on its own without legislative action. Indeed, Trump followed up on the initial failure of the repeal bill by tweeting that "[t]he Democrats will make a deal with me on healthcare as soon as ObamaCare [the ACA] folds—not long." These comments appear to specifically address the state of the individual market health insurance exchanges established by the ACA. These exchanges allow individuals to use tax credits and subsidies to buy individual market medical insurance policies. Exchanges in some geographic markets have struggled to retain insurers. Allegations of imminent "collapse" generally seem to refer to the withdrawal of all insurers from the exchange in a geographic market. Without policies for sale on the exchanges, individuals cannot take advantage of the tax credits and subsidies.

These forecasts of ACA "collapse" do not provide employers immediate ACA compliance relief. Determining how the "collapse" of an ACA exchange would impact the ACA employer mandate is difficult. The employer mandate penalties are tied to the existence of insurance available through individual market exchanges—the penalties apply only if the employee obtains subsidized coverage on an exchange. Even in regions where all remaining insurers are leaning

towards departing from the exchanges, however, employers cannot be certain of which, if any, exchanges will "collapse" and how specific exchange failures would impact their workforce's ability to obtain subsidized coverage that triggers an employer mandate penalty. The widespread "collapse" of exchanges in a region conceivably could change the risk analysis for employers considering paying an ACA penalty rather than providing qualifying coverage, particularly an employer willing to pay a (b) penalty for providing minimum essential coverage that is not affordable or does not meet minimum value. An employer, however, would need to approach such an analysis carefully.

The First Day Executive Order Suggested Potential Relief, But Provided No Apparent Respite from ACA Employer Obligations

With legislative repeal currently stalled and the uncertainty surrounding exchange failures, employers will continue to look for administrative relief. The Trump administration's "first day" executive order announcing the intention to repeal the ACA stated that pending repeal the executive branch would "take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the [ACA]," but provided no concrete compliance relief. The order directed agency heads with ACA enforcement responsibilities to "exercise all authority and discretion available to them" to grant relief from and delay implementation of ACA provisions that would burden states or "individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications." Employers are notably absent from this list of affected parties to be granted available relief. Although employers often are "purchasers of health insurance," many self-insure, leaving those employers excluded from the directive.

Despite the executive order's ambiguity, the agencies charged with enforcing employer ACA obligations may grant broader relief to employers, particularly if the administration gets more political appointees in place. The ACA implementing agencies have a history of granting relief, even under the Obama administration. Indeed, this November, more than two months before the inauguration, the IRS granted a 30-day extension on the issuance of ACA information returns to plan participants. For now, however, there is no clear indication of additional administrative relief resulting from the change in administrations.

As Long as the ACA Remains in Force, Applicable Large Employers and Growing Small Employers Must Be Mindful of the ACA

Applicable large employers already subject to the ACA can continue offering coverage and applying existing compliance processes while awaiting a repeal of the ACA employer mandate or significant agency relief from enforcement. Perhaps more frustrating, smaller businesses, with fewer than 50 full-time equivalent employees, may find themselves reaching the 50 full-time equivalent employee threshold due to growth or ownership changes and may be forced to consider expending resources on compliance with a law that could be repealed in short order.

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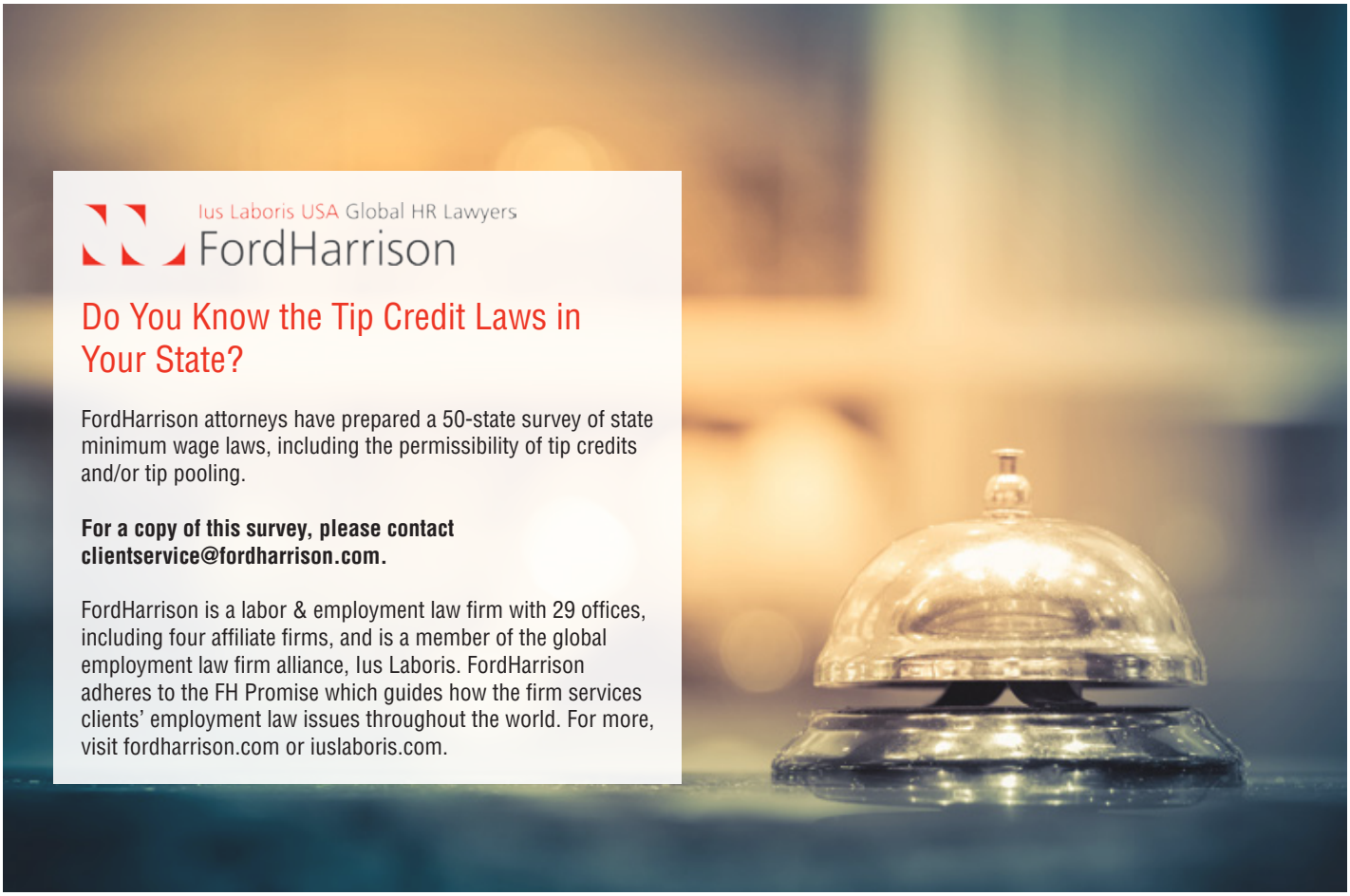
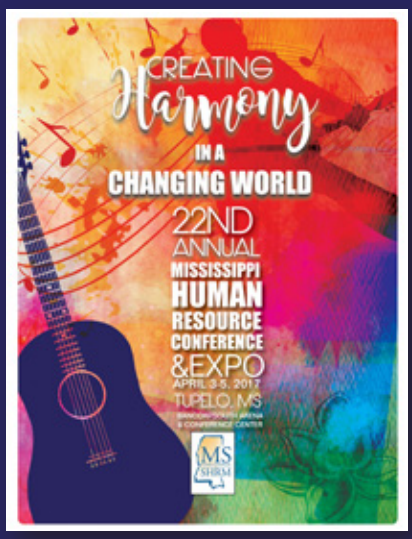


Jan Farve, PHR, was on the cover of the May 2013 Issue of HR Professionals Magazine.

Highlights from the 2017 MSSHRM Conference & Expo

"Creating Harmony in a Changing World"

April 3-5 in Tupelo



1 2017 MSSHRM State Council (front row L-R) Janna Rogers, a team member and Membership Director, Shirley Wyatt McFarland, Workforce Readiness Director; Shonda Kines, Secretary- Treasurer; Jan Farve, 2017 MSSHRM Director; Cynthia Render Leach, Student Affairs Director (back row L-R) Lisa Smith, Foundation Director; Sherry Bedwell, Golden Triangle Chapter President; Brandi Garrett, Certification Director; Amanda Ford, Southern District Director; Tamara Bailey, CAHRA Chapter President; Jacquelyn Mack, Publicity Director; Melissa Drennan, Director-Elect. **2** Cynthia Y. Thompson, MBA, SHRM-SCP, SPHR presented a three-hour pre-conference workshop on "Strategic Leadership." Participants received 3.00 HRCI strategic business credits and 3.00 SHRM PDCs. **3** Dave Jesiolowski was the opening general sessions speaker on Tuesday. He spoke on "Losing Your Sight to Find Your Vision." Jesiolowski was a professional hockey player who lost his sight, which helped him to regain a renewed vision.

4 Jan Farve, 2017 MSSHRM State Council Director, with Dr. Samuel Jones, PhD, who was the luncheon general sessions speaker on Tuesday. His topic was "Leadership Crisis: Closing the Gap Between Average and Excellence." **5** Timothy Lindsey and Robin Taylor, Shareholders with Ogletree Deakins-Ridgeland, were concurrent speakers on Tuesday. They spoke on "From Water Coolers to Snapchat: Preventing Sexual Harassment in a Modern Workplace." Ogletree Deakins was a gold sponsor of the conference. **6** Jimmy Giles and Curnis Upkins, Jr. manned the photo booth where attendees could have their photo made with "the king of rock 'n roll." Jimmy and Curnis are with the Mississippi Hospital Association.

7 Martin Regimbal, Taylor B. Smith, and Michael Hudson, attorneys with the Kullman Firm in the Exhibit Hall. The Kullman Firm was a bronze sponsor of the conference. **8** Murray L. Harber, Executive Director of the Mississippi Business Group on Health (MSBGH), was a concurrent speaker on Tuesday. His topic was "Achieving Harmony, Health and Wellbeing in the Workplace. MSBGH was a bronze sponsor of the conference.

9 Randy Patterson, attorney with Baker Donelson Jackson, spoke on "God, Guns and Some Other Interesting Stuff," at a concurrent session on Tuesday. Baker Donelson was a bronze sponsor of the conference. **10** Bill Allen, Jr., ESGR; Dorothy Knapp, SHRM-SCP, Director of Field Services for Mississippi; and Judy Nail, past Director of MSSHRM at the SHRM booth. **11** 2017 MSSHRM Conference attendees at the opening general session.

12 Mississippi State University students Megan Reihm and Paisleigh Sanderson were volunteers at the 2017 MSSHRM Conference. **13** Beth Tackett, SHRM-SCP, SPHR, recipient of the 2017 MSSHRM HR Professional of the Year Award, with Shonda Kines, SHRM-CP, PHR, the 2016 recipient. **14** Sara Yates with the CAHRA Chapter received the Spirit of HR Award. Brandi Garrett, SHRM-SCP, PHR, was the 2016 recipient of the award.

15 2017 MSSHRM Director Jan Farve, PHR, with the Tuesday evening entertainment, the Memphis Jones Trio

16 A view of the Tupelo Automobile Museum where the Annual Social Event with Exhibitors and Sponsors was held on Tuesday night

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"The HR Hat Dance"

By THERESA J. ALLEN

"I wear lots of hats" – Sound familiar? I feel certain I hear this at least once a week from either a client or a prospect who manages human resources. After listening to their list of many, many, *many* job responsibilities, I realize this is no exaggeration. This person is trying to fill more roles (in this case wear more hats) than is realistically possible.

My company offers numerous human resource tools to our clients. Partnering them with the resources which best fit their needs is vital. In doing so, I need to know all I can about their daily tasks. So, I go through a checklist of questions. Naturally, their hand goes go up when I ask "Who handles your company's day-to-day HR responsibilities?", "What about payroll?", and "Recruiting and onboarding?" These are the given responsibilities of the HR department. But, I begin to get concerned when their hand continues to rise when I ask "What about special projects or wellness?", "Workers Comp?", or "OSHA?" At that point, through an almost embarrassed smile, they utter the line that I so often hear, "I wear lots of hats."

There are some valid reasons for this sad, yet very common, situation. At the top of the list – inadequate staffing. When a company does not have the appropriate staff to handle the responsibilities of the personnel department, without them also handling something like loss control, those duties, perhaps through osmosis, are ultimately assigned to a lone unfortunate employee. Another common reason could be that the employer simply underappreciates the critical concept of human resources. They have limited understanding of HR, regardless of how much recognition and respect the widely popular SHRM organization brings to the field. Maybe management downplays the importance of human resources because of ROI… they believe you cannot quantify the value of the department. Regardless of the reason, they find themselves in this situation and the HR hat dance begins.

Is doing more with less really a big deal? It depends on who you ask. On a regular basis, I have conversations with those, let's call them, "hat dance employees." Some have little or no previous experience in the HR arena, whereas, some are well-established and certified. Though their backgrounds may differ, their work situations are all too similar. The common ground is their respect for and commitment to their employers and also an inherent work ethic which can be deceiving – tricking them into believing they can, as a one-man HR shop, perform a well-choreographed synchronized HR hat dance day after day. They find themselves handling an insurmountable number of duties and their time management keeps them from doing any of them well. It is a paradox - something as simple as prioritization leads to indecision which leads to frustration. They begin to struggle with self-worth and job dissatisfaction creeps in, which could ultimately lead to morale issues.

If the employer continues to ignore the situation, eventually employee allegiance can morph into burnout. Forward-thinking employers will not let that level of employee dedication get out the door. Reality check: Overworking employees is counter-productive.

Yet from the employer perspective, doing more with less could be out of necessity. Small businesses may have to rely on *all* their staff members to wear many hats – not just the HR department. Businesses, regardless of size, may be forced at times to downsize during an economic slump or during their own industry's predictable slow season. Regardless of why, if an employer makes a decision to overlap HR duties, they should be prepared to face some consequences that could put their company in jeopardy. Other departments and other jobs may suffer (perhaps accounting is overlapped); important tasks that may be overlooked or not handled timely or accurately (annual reviews come to mind); and the ever important aspect of compliance (remember IRS reporting?). Noncompliance exposure can be costly especially where the government is concerned.

Harvey MacKay is a syndicated columnist who offers career and inspiration advice, and is the author of three number one bestselling books. He once said, "Employee loyalty begins with employer loyalty." Mr. MacKay's advice is vital for a company in understanding the importance of the human resources department, regardless of whether the department employs six or sixteen people.

If your company finds itself having to make hard decisions that require scaling back and doubling HR workloads, give the double-duty employee reassurance. Let them know that you recognize the challenges of wearing many hats and you realize and appreciate that they make extremely important decisions on a daily basis. Be certain to keep the lines of communication open. Be open-minded. Trust their instincts, especially when they inform you that it is crunch time – time to hire an assistant or time the company takes drastic steps to create a more sophisticated HR department. By doing so, chances are good your company will retain a hardworking, enthusiastic, devoted employee.

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Simple, Modern, and Personal Approach to Benefits Communication and Enrollment

By AUSTIN BAKER

Recent surveys report that only 33% of employees rated their benefit communications as excellent or very good. The 2017 MetLife Employee Benefits Trends Survey shows that 83% of employers' rank retaining employees as their No. 1 objective of their benefits program, whereas controlling the cost fell to No. 4 from the No. 1 spot that it has dominated. These two statistics point to a real communication challenge that has a direct budget impact, yet doesn't appear on most benefits spreadsheets. Employee benefits have grown increasingly complex; consequently, employers need better techniques to help retain the tremendous value that a well-designed benefits program represents.

Creating a plan now for your open enrollment that includes targeted pre-communications can help you close the gap of understanding. Take a quick pulse by asking yourself these questions: Are your benefits offering, the technology that supports them, and the communications about them modern and personal? Is there simplicity infused at the core of each of these areas? Some of the steps you can take today that will bring simple, modern and personal techniques to your benefits program include applying them at the following stages: data analysis in benefits planning, setting priorities for Open Enrollment, surveying resources available to you, and setting a communication and technology project plan to make effective changes.

These options may sound like blocking and tackling, but there a few reminders and perspectives that we should consider as we approach them from a simple, modern, personal approach this open enrollment season. These three themes came to life recently through one of our major partners Colonial Life and their leadership team's embrace of the simple, modern, personal approach that has driven double digit growth for more years than analysts could have fathomed was possible for an organization of their size. They not only apply this dogma in how they execute, they also apply to their approach as a support and implementation partner for their customers. They are obsessive about simple, modern, and personal, and it is working.

Reviewing Data to Set Your Simple, Modern, and Personal Strategy

Employing the right benefit consultant or broker can help you tremendously in obtaining and understanding the benefits data as it relates to your group trends. Taking snapshots of utilization, engagement and cost trends and applying it in a comparative analysis that is meaningful is an art. Also, understanding and embracing that employees want more choices in their benefits programs is yet another opportunity that is sometimes overlooked by advisors. A full 76% of millennials said benefits customization was important towards increasing loyalty to their employers, and the good news is that many of them don't always expect these options to be company paid. Increasing choices, while keeping the process simple, modern, and personal requires a different approach to this stage of your planning.

This analysis requires design thinking that starts with empathy, then moves into defining, ideation, prototyping, testing and implementing. So, it is important to ask different questions along this journey. What biases for our own stages of life and income earnings may be clouding our perceptions in the analysis process? Is this change in benefits offerings and/or strategy designed to meet employees at the stages of life that they are encountering, as well as the unexpected events that life brings to them? How are trends such as the gig economy, the rise of innovative tuition benefits and the rapid increase in employee interest in portable benefits being factored into your offerings?

What internal survey data are your collecting on your benefits program and the perceptions around them? Are you holding focus groups about your benefits to capture the perspectives of one of the most diverse workforces in our modern history? Did you know that 49% of employees are concerned, anxious or fearful about their current financial well-being? How will you make benefits diverse enough to be personal and simple enough to be consumed wisely?

Narrow Down your Priorities to Simplify Changes

The science of choice as well as our human nature in change management and decision making begs employers to narrow down the number of new choices we elect to put in front of employees. Now this does not constrict from having many choices in your benefits program, but it does implore us to consider an iterative process for rolling our changes out in phases. It also means we need to step up our strategy to provide decision tools and resources that help us implement a "nudge" approach to helping employees make wise decisions that are very personal.

The paradox in choice is that we all want more choices to be satisfied, but the more choices we have the less likely we are to be satisfied with our decisions and the process we must go through to make them. This asks us to consider two different strategies to this difficult but important function around benefit design and communication. The first area is in the narrowing down of priorities from our design thinking data process. The second is to use modern tools and robust partner resources to help employees make decisions that are tailored to their needs.

Think about it, if I were to ask you to choose between eight different options, then what is the likelihood of you making a relaxed and informed decision? Now if I were to ask you to choose between three different options based on data about you gathered and guided by personal advice of assisted decision making resources, then now what is your likelihood of being more satisfied? With modern tools and robust resources from benefit partners, employers can assist employees in making better benefits decisions.

Partner Resources Available to Create a Simple, Modern, and Personal Benefits Experience

The right consultant and carrier partnerships go beyond advice and sound insurance products. In many cases, these organizations can bring additional support and value-added programs from technology, to additional offerings that can help you accomplish

your goals while not always incurring additional budget costs. Particularly the voluntary product carriers have an array of services and offerings in these areas.

Employees are looking for additional options, decision support tools, and tailored advice from trusted sources to navigate these options and make choices. Employers are required to meet certain legal requirements for communications and in many cases, stop there. Best in class organizations go beyond these legal requirements to make the information simple and personal. They also bring modern tools to put information at current and prospective employee's fingertips.

Best in class carriers and consultants will bring you a toolbox of options and technology infrastructure such as; benefit administration, enrollment software, educational websites, targeted data driven communications that personalize recommendations and other programs to complement your benefit offerings. Additional communications and support that employees rank as important is one-to-one enrollment services, call center support, group meetings as well as point of service offerings such as telemedicine. Other offerings include financial literacy, tuition programs, pre-paid legal, identity theft and other well-being resources. Take time to find out about all options available with current and new carrier partnerships as it relates to your discovery and priorities.

Putting your Strategy to Work

Insurance and financial decisions create the perfect maze for our "internal procrastinator" to wonder. The culture change necessary that employers must embrace is both an internal management case for helping employees take time out to make these decisions, and the human nature factor of wanting to put off decisions that are frankly not on our favorite topics of interest. How do you think an employee would rather spend their time; on vacations spots versus options for care options when in an unexpected medical or financial situation. Surveys comparing the amount of time willing to be dedicated in these areas, were very revealing to what our challenge is in this area. Finally, leadership must be educated that considering the budget spend on benefits and the importance in attracting and retaining employees that need their support and advocacy for taking time out for benefits. If we setup a plan today, we can make this year's open enrollment a simple, modern, and personal process that increase employee retention.

Austin Baker

ABOUT THE AUTHOR

Austin Baker is the President of HRO Partners a Human Resources Consulting and Benefit Administration and Enrollment Firm. HRO Partners is a fast-growing provider of Benefit Enrollment Solution that works with many strategic vendor partners such as Colonial Life & Accident Insurance Company who is a market leader in providing financial protection benefits through the workplace, including disability, life, accident, dental, cancer, critical illness and hospital confinement indemnity insurance. Colonial Life's benefit services, innovative enrollment technology and personal service support more than 80,000 businesses and organizations, representing more than 3 million of America's workers and their families.

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Needing Summer Employees, Interns, or Volunteers? Don't Skip Background Checks!

By STEWART GOTT

Ah, summertime. Bring on the hot, lazy days by the pool, the smell of a freshly cut lawn, and cool lemonade in a frosty glass.

Another summertime activity for many is **volunteering, interning, or working** during the summer months. Camps, pools, recreational companies, and many more businesses and non-profit organizations will be gearing up to bring on extra people either in paid or volunteer positions. Millions of people will be aiming to attain these summer positions, and some of them have unsavory intentions.

And, as with any other person who is hired, these people need to submit to a thorough background check.

While the majority of companies perform some sort of pre-employment screening during the regular hiring process, **summer hires, interns, and volunteers often slip through with no screening whatsoever.** There are a few reasons for this:

• **They won't be there long.** People who only work for a company for a few months are sometimes perceived as less of a potential threat to the safety of the workplace. Likewise, volunteers are donating their time with no pay, so surely they don't have any ulterior motives or pose a danger, right? This is NOT the case. Summer employees and volunteers are just as likely to be dishonest and damaging as a full-time employee. Organizations that fail to properly recognize these risks are setting themselves up for sticky situations that can include costly lawsuits.

• **They were referred by another employee.** A friend of a friend is often the way summer hires get their jobs. The opinion goes "Ben is awesome, so his friend must be honest, too." Unfortunately, there may be secrets a friend is hiding that could be dangerous for your business or non-profit to take on. Believing that the friend is as honest as the current employee is ***a dangerous assumption*** for the employer to make.

• **Screening is perceived as too costly.** Summer jobs are often lower paying jobs (interns and volunteers are not paid at all), and that, coupled with the fact the job is temporary, makes lots of employers view screening as an unnecessary expense. While background checks do cost money, it is smart business to realize the importance of checking out an employee's background, especially if they are working with ***vulnerable populations,*** such as children or the elderly.

• **Screening is not required.** Some organizations think if it's not mandatory, they can skip it. Very few states require summer hires, interns, and volunteers such as camp counselors and lifeguards to be screened.

To protect the safety of the company's working environment, its clients, and its reputation, employers need to realize that a screening policy does not begin and end with full-time, permanent staff. The following procedures can be put into place to minimize the chance of a dishonest or dangerous person being hired or allowed to volunteer:

- Establish a policy for screening summer hires, interns, and volunteers. HR professionals, hiring managers, and volunteer coordinators need to proactively decide what is required for seasonal hires, interns, and volunteers. Determine which background screening tools will be utilized for each position, and stay consistent with that plan. Explain to the applicants on the front end they will be the subject of a background screening report. To save your organization money, you may want to consider having the applicant pay for their own background check, especially if they are volunteering.

- Become familiar with the laws. States may have laws that govern what is and is not allowed during a background check. Examples of these are "ban the box" which restricts asking about criminal history on the application, and regulations on using credit reports for hiring decisions. Employers should make certain to be up to date on and compliant with all pertinent laws and put a high priority on complying.

- Obtain the applicant's authorization. Each applicant should authorize the background check, and needs to receive a disclosure that a background check is being conducted. This is required even with volunteers and interns. The authorization needs to be its own document, separate from the application.

- Utilize relevant screening tools. Design the background screening procedure to be in line with the job or volunteer position's responsibilities. For example, a camp counselor would need to be checked against a sex offender's registry, but would not necessarily need to have a credit report pulled. Avoid using screening information that is not fair, or your organization could open itself up to a discrimination lawsuit.

- Follow the FCRA requirements if you decided to deny employment or volunteer opportunity. A pre-adverse action letter must be sent to the applicant if it is decided not to hire based on whole or in part from the information found in a background check. The applicant needs proper time to dispute any information (usually five business days) then you need to send a follow up adverse action letter.

Organizations hiring for summer, looking for volunteers, or offering internships need to be aware of the risks these individuals potentially pose. A thoughtful, written out plan should be a top priority for employers who hire summer workers or recruit volunteers. Hiring the right people can greatly minimize risk to the workplace, protect the populations an organization serves, reduce the chance of litigation, and preserve the company's reputation.

And that makes for a happy, stress-free summer.

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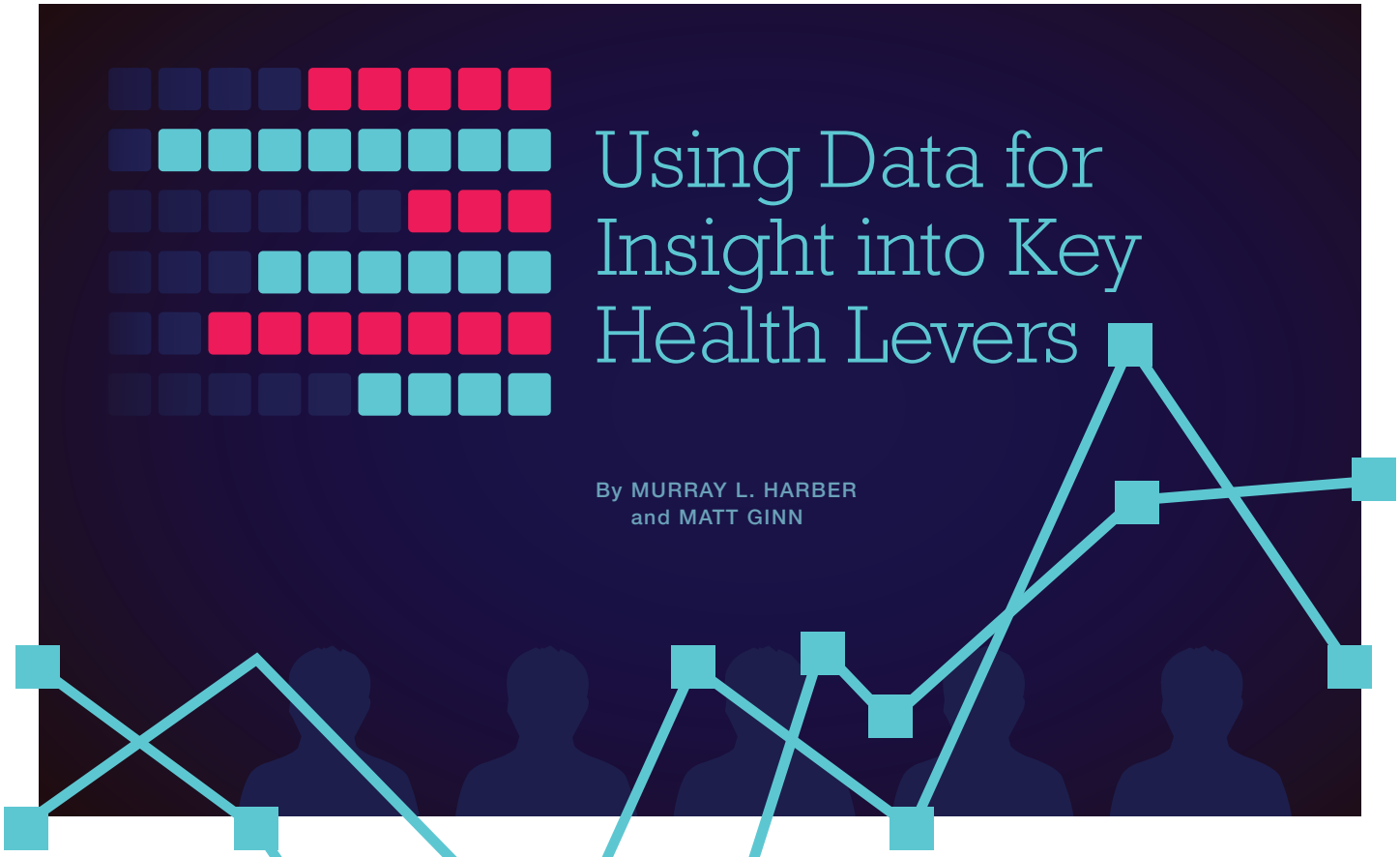

Using Data for Insight into Key Health Levers

By MURRAY L. HARBER
and MATT GINN

Big data, little data, meaningful data, focused data, you name it and it's being discussed. As we continue to unfold the algorithm of employer health, we continue to battle inertia, negative forces, and environments with limited access to data and limited interpretation of the data when it is presented. Most companies and human resource professionals have a long way to go to be truly integrated with data.

Results in Outcomes and Impact

Southern Farm Bureau Life Insurance Company has taken a data-driven approach since implementing their employer health strategy back in 2007. Since then, they have built a best-in-class system which supports and promotes healthy habits as choices that are readily available. They have used data every step of the way to build a program which is valued, successful, and industry leading for a company in the south.

SFBLI has assessed and updated their campus in a variety of ways to encourage healthy behaviors and promote well-being. The newest renovations includes a multi-purpose room for health, wellness, and well-being activities and events along with upgrading the café with more focus on healthy options and choices. Additional programs have continued to be created for target populations such as metabolic conditions of overweight, obesity, and diabetes.

SFBLI contracts with Vigilant Health to analyze their claims and clinical information to support benefit changes and to design specific pathways for value-based care. Vigilant Health also manages the SFBLI onsite health clinic which is made up of a care team based model of Internal Medicine Doctors, a Nurse Navigator and a Nurse Practitioner. The care team uses the data to engage SFBLI plan members into the right care at the right time and at the right place. All of the strategies that SFBLI has put into place has helped them go from limited reserves to over $3 Million.

> *"As we advance the management of both our employees' health and the cost of providing health insurance, data analytics is the next big step. With an onsite clinic, wellness program and strong third party administrator, we see the ability to collect data on health issues (using non-identifiers/ HIPAA compliant collections) as the next evolution of preparing for the wave of health issues that will be high cost drivers in the future.*
>
> *The ability to use this data to address the big cost issues that are coming will allow us to be ahead of the curve in managing our program. The data must be relevant, accurate and timely but this can be very powerful in providing quality and cost effective health programs."*
>
> **Billy Sims, Senior Vice President**
> Southern Farm Bureau Life Insurance Company

Multi-Employer Data Registry

The Mississippi Business Group on Health has been working for several years to create its own data registry for its participating members. The aim is to build a resource where employers can assess their health plan using a population health framework and be able to benchmark areas with other participating companies. Participants can use the information to develop new benefit designs and develop programs to engage plan members into appropriate high quality providers and systems of care.

The members of the Mississippi Business Group on Health are helping to improve the health of the state of Mississippi by educating, collaborating, and bringing together all partners in the care system - the plans, the providers, and the employers. To learn more about membership and upcoming learning events, please visit www.msbgh.org. The MSBGH also collaborates with the Mississippi State Department of Health and the Mississippi Business Journal on the Recognized Healthy Employer (RHE) initiative and the 2017 Healthiest Workplace Awards. We encourage all employers in Mississippi to complete the RHE survey and submit an awards application for the Healthiest Workplace awards.

There are many great innovations being created and promoted in Mississippi and they all start with data. Using data and making it actionable is the key too building successful value-based solution for any health plan and specifically employer-based plans. Employers want to moderate the increases in their health spend but they really want more value for the current money invested into this valuable employee benefit. Data is here to stay, so we need to continue to build transparency and use data in a meaningful way. Together, we can improve the health of Mississippi employers while improving the quality and reduce the cost of health and well-being programs.

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Predictive Scheduling: **TREND** and **COUNTERTREND**

By DALE CONDER JR.

THE TREND

Over two years ago, the San Francisco Board of Supervisors adopted a first-of-its-kind ordinance: San Francisco Retail Workers' Bill of Rights. This ordinance applies to "'formula retail establishments' (or chain stores) with at least 40 formula retail establishments worldwide and 20 or more employees in San Francisco as well as their janitorial and security contractors." http://sfgov.org/olse/formula-retail-employee-rights-ordinances (citing San Francisco Police Code Art. 33F, §3300F and Art. 33G, §3300G.) San Francisco requires covered employers to give new employees a written, good-faith estimate of the "employee's expected minimum number of scheduled shifts per month and the days and hours of those shifts." Id. (citing subsection 3300G.4(a)). And employers must give employees their schedules two weeks in advance, and if the schedule changes with less than seven-days' notice to the employee, the employer must pay the employee for one to four hours of pay at the regular hourly rate. The number of hours depends on "the amount of notice and the length of the shift." Id. What starts in San Francisco does not stay in San Francisco.

Seattle, Washington, Emeryville, California, and San Francisco have more in common than geography; Seattle and Emeryville adopted predictive-scheduling ordinances too. Like San Francisco, Seattle and Emeryville require that schedules be provided two weeks in advance. If there are changes within this two-week period, the employer must pay "predictability pay." Seattle's predictability pay is equal to one-half of the hours not worked and an extra hour of pay if extra hours are added to the schedule. Emeryville's predictability pay depends on how much notice the employer gives to the employee. One striking difference between Emeryville and Seattle and San Francisco is that Emeryville's ordinance applies to employers with 56 employees worldwide. Seattle and San Francisco have a much higher threshold for applicability.

Seattle's and Emeryville's ordinances also take aim at "clopening" by requiring at least ten hours (Seattle) and 11 hours (Emeryville) between work shifts. In other words, it is intended to stop the practice of requiring an employee who works a night shift from being required to work an early morning shift. ("Clopening" is a portmanteau word created by blending "closing" and "opening.") Not to be outdone by west-coast cities, Washington, D.C. and New York City are working on similar laws.

The states have not been quiet about this issue. In 2016, legislation was pending in 16 states to enact similar laws on a statewide basis. And this year, the Oregon legislature is considering a bill that—if enacted—would require employers to pay up to four hours of unworked time if an employee's shift is shortened or canceled. The proposal would require larger employers to engage in an interactive process to work out an employee's

scheduling concerns. This bill continues to work its way through the legislative process. Interestingly, a similar bill died in Oregon in 2015.

Proposals in California and Washington, D.C. also failed to pass, but there is a strong likelihood that these proposals will be resurrected.

THE COUNTERTREND

Following attempts in Cleveland, Ohio, to enact similar laws, the Ohio legislature passed a law prohibiting local governments from enacting such laws. And this is developing into a counter-trend.

Nineteen states, including Tennessee, have laws that preempt local governments from passing minimum-wage laws. And several of these states have expanded their preemption laws to bar local governments from passing laws that address employment conditions and benefits. Although Tennessee is one of 14 states that have laws preempting local laws on employment conditions and benefits, it does not appear to reach far enough to preempt predictive-scheduling ordinances. It remains to be seen how the predictive-scheduling laws will fair in Tennessee.

Nineteen states, including Tennessee, have laws that preempt local governments from passing minimum-wage laws.

These preemption statutes, however, are being challenged in court. In Alabama, the Service Employees International Union is providing support for a lawsuit challenging Alabama's right to preempt the City of Birmingham's efforts to pass a minimum-wage ordinance and other employment related ordinances. The lawsuit is based, in part, on equal-protection grounds. The plaintiffs allege that the preemption statute denies them equal protection because the state legislature that passed the statute is elected by a majority-white electorate and the City of Birmingham's electorate is majority black. In February, the district judge dismissed the lawsuit, and the plaintiffs have filed an appeal with the Eleventh Circuit.

The problem with these laws is that one size does not fit all. For some employers, such laws might not be a big obstacle, but for others, especially smaller employers, this could be a real problem. Many object to these laws because they see them as too much government involvement in the employer-employee relationship. These laws are something for employers and their HR professionals to be on the lookout for.

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Is Chronic Heartburn Burning Your Workplace?

By KAREN BOBBITT

An employee calls in sick – she was up late the previous night with terrible pain, almost like a knife in the chest. Fearing a heart attack, she called 911 and, after hours of cardiac testing and monitoring at the hospital, costing thousands of dollars, the diagnosis is an episode of sudden onset gastroesophageal reflux disease, known as GERD.

Days later another employee on an assembly line suffers a severe cut to the hand. While one co-worker rushes the injured employee to the hospital, other employees scramble to cover the workload. During the physical evaluation, the employee reveals he is suffering from extreme exhaustion and that the lack of sleep impacted adherence to safety standards. Uncontrolled stomach pain has made it impossible to sleep unless the employee is sitting completely upright – a common way that many manage sleep-interrupting GERD symptoms. The employee has to file for workers' compensation and short-term disability, while the team leader shuffles schedules for the next four weeks.

These stories demonstrate the potential workplace impact of one prevalent and often under-the-radar disease. Many human resource (HR) professionals do not think much about GERD. Everyone gets heartburn occasionally, right? With gastric acid treatments like proton pump inhibitors (PPIs) – such as Nexium® or Prilosec® – available over the counter, HR professionals might assume the cost of reflux mostly falls on the employee, not the employer. Dig a little deeper, and a more complex picture is revealed.

Understanding GERD

GERD, also commonly known as acid reflux, occurs when acid or other stomach contents back up into the esophagus from the stomach due to a faulty valve. The most common symptom of GERD is heartburn, which, while rarely life-threatening, can greatly reduce a person's quality of life by affecting daily activities, sleep and eating. Those with GERD may have other typical symptoms including abdominal or chest pain, reflux and/or regurgitation and difficulty sleeping. Other atypical symptoms can include chronic cough, sinusitis, asthma, chronic laryngitis/voice disturbances and dental erosion. According to a study in The American Journal of Gastroenterology, if left untreated, GERD can lead to costly, potentially life-threatening conditions like esophagitis, Barrett's esophagus and even esophageal cancer.

And reflux is not a small problem. GERD is one of the most prevalent gastrointestinal disorders. The National Ambulatory Medical Care Survey (NAMCS) estimated GERD may affect as much as 30 to 40 percent of the U.S. population. An article in the American Journal of the Medical Sciences reported more than 80 million Americans experience GERD symptoms at least monthly and 19 million experience daily symptoms.

Assessing the Impact of GERD

When faced with a clinical diagnosis, an HR professional's possible thought is, "How does this affect the health plan?" With skyrocketing health care costs, containing premium increases is a key HR responsibility. The impact of reflux, unlike cancer, is not seen in "shock claims" but instead in the broader health benefit costs. For GERD sufferers, the overall difference in direct and indirect health benefit costs was $3,355 more per employee annually, according to a study in Alimentary Pharmacology & Therapeutics. When GERD affects three to four out of 10 health plan members, as shown in the NAMCS, it's critical to manage the disease to achieve long-term health plan savings.

HR professionals must also factor in the effect of GERD on employee productivity in absenteeism and presenteism. The International Foundation for Functional Gastrointestinal Disorders reports that reflux costs the U.S. nearly $2 billion each week in lost productivity. Employees with GERD may experience 41 percent more sick leave days, according to a study in the Journal of Occupational and Environmental Medicine.

And another study published in Alimentary Pharmacology & Therapeutics showed that 30 percent of GERD sufferers reported reduced productivity. Much of this can be due to symptom severity and instances of nocturnal heartburn, particularly when it interferes with sleep.

The HR Professional's Role

Given the disease's potential impact on the workplace, HR professionals must increase their understanding of GERD to have a greater appreciation of plan enrollees who may be suffering. A quick way to assess this is to run a health plan claims report identifying those costs associated with GERD diagnoses. It is often a top 10 claims cost category alongside more recognized and addressed diagnoses like diabetes and heart disease. A search should include:

ICD-10-CM	Description
K21.0	Gastro-esophageal reflux disease with esophagitis
K21.9	Gastro-esophageal reflux disease without esophagitis
K30	Functional dysphasia
R10.13	Dyspepsia NOS
K44	Diaphragmatic hernia without obstruction or gangrene
R12	Heartburn

The next step is to raise awareness among employees, including offering programs which highlight the prevalence of GERD and the treatment options available. A wealth of information also can be found at www.GERDHelp.com.

For GERD sufferers with infrequent symptoms, their health care provider may suggest simple dietary and lifestyle changes such as:

- Losing weight
- Avoiding "trigger foods" known to cause reflux, such as chocolate, caffeinated beverages and acidic foods like tomatoes and spicy sauces
- Eating smaller, well-timed meals
- Avoiding eating at least four hours before bedtime
- Quitting smoking
- Limiting alcohol intake

Impact of Prolonged PPI Use

When lifestyle changes become impractical or do not reduce symptom frequency or severity effectively, an employee's physician or gastroenterologist may suggest medical treatment. Some GERD sufferers may take over-the-counter or prescription PPIs to control symptoms, but many do not realize that PPIs are approved to be used for just a few weeks, not months or years. Recent research has shown long-term PPI use may be linked with other health issues including:

- Chronic kidney disease (as reported in JAMA Internal Medicine),
- Dementia (as reported in JAMA Neurology),
- As well as increased pneumonia risk, vitamin B12 deficiency and increased risk of fundic gland polyps (as reported in the World Journal of Gastroenterology).

Long-Term Treatment for GERD

Employees with persistent symptoms may need to seek a medical evaluation from a gastroenterologist or foregut surgeon specializing in GERD. This provider can definitively determine if an employee has GERD and the likely cause of it. Often, it's caused by an anatomical defect, such as a hiatal hernia. In these cases, lifestyle changes and PPIs may not provide adequate relief and an interventional procedure may be needed. In fact, a study published in Expert Review of Medical Devices reported that, over time, approximately 17 to 32 percent of GERD patients do not experience adequate symptom relief with lifestyle changes and medication.

Many health plans consider a laparoscopic Nissen Fundoplication to be the "gold standard" for patients with an anatomical reason for their GERD. This surgical procedure developed in the 1950s has given many relief from the bothersome symptoms of GERD and has helped many to get off their PPI medications, but it is linked to long-term side effects like dysphagia (difficulty swallowing), gas bloat and inability to belch or vomit, as outlined in an article in JAMA.

There are a variety of options available for the long-term treatment of GERD. However, health plan medical coverage guidelines do not always feature the most recent advances in technology. Newer, less invasive and very safe procedures have become available, including the TIF® procedure. TIF is an acronym for transoral incisionless fundoplication, and it is performed through the patient's mouth, which means there are no incisions. While under general anesthesia, a special device is inserted and is used to manipulate and recreate the valve between the stomach and the esophagus, correcting the anatomical defect causing symptoms and providing similar benefits as a Nissen surgery but without as many side effects common to that surgery.

The TIF procedure has been largely embraced by the medical community and medical societies such as the American Gastroenterological Association (AGA), the American Society of General Surgeons (ASGS) and the Society of American Gastrointestinal and Endoscopic Surgeons (SAGES). It is also substantially less expensive than a Nissen fundoplication. The 2017 average, unadjusted Medicare reimbursement for the TIF procedure is $4,392.22 versus the Nissen procedure, which can range from $8,573.89 to $33,810.71 – *two to almost eight times more expensive than the TIF procedure* – depending upon the degree of complications (www.cms.gov). More importantly, the cost savings do not compromise outcomes.

Unfortunately, the TIF procedure is not always covered by third-party administrators – greatly limiting options for treatment of GERD. HR and benefits managers should review their plan administrator's Medical Coverage Guidelines to find out which treatments for GERD are covered. If the TIF procedure is not covered, self-funded employers can easily request that coverage for CPT code 43210 is added to the plan. Fully-insured employers can apply pressure to their insurer to add TIF coverage to commercial plans. In addition, employers can direct their employees to GERDHelp.com for more information about GERD, treatments and locating specially-trained physicians.

By understanding GERD and its effect and impact on the workplace, providing the right information and ensuring health plans cover varying treatment options, HR professionals can help their company and fellow employees better manage the impact of this prevalent disease. This helps keep everyone from feeling the workplace burn of GERD on employee productivity and the employers' bottom line.

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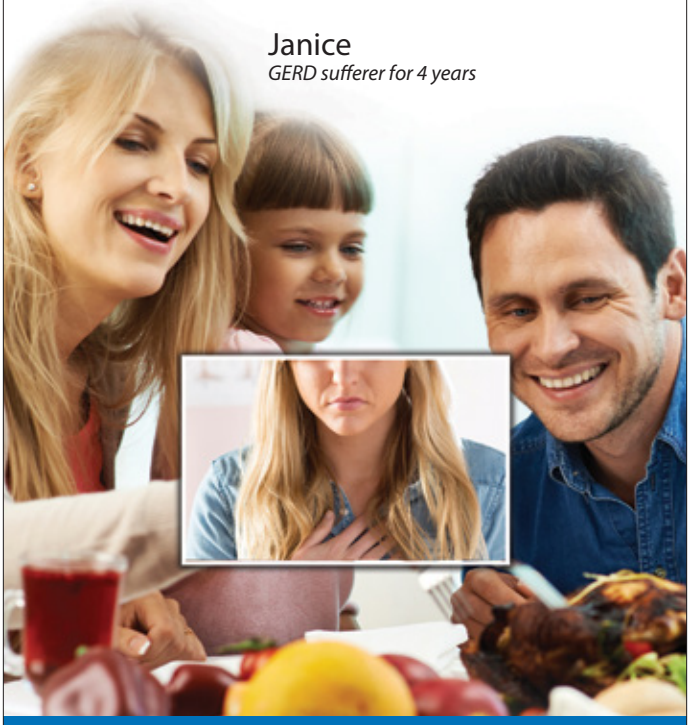

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7 Deadly Sins of Mobile Devices in the Workplace. **Are You Guilty?**

By RACHEL V. BARLOTTA

What was the first thing you did when you woke up this morning? If you checked your smart phone, you are among the majority of Americans who admit to looking at their phone within the first 5 minutes of waking according to Deloitte's 2016 global mobile consumer survey. Mobile device technology has infiltrated every aspect of our lives from the bedroom to the boardroom. The consequences of mobile technology being ever present at our fingertips is both good and bad for employers. On the one hand, mobile technology allows employees to stay connected and perform work even when away from the office which can lead to enhanced employee engagement and a more satisfied workforce, particularly among younger workers. On the other hand, frequent use of mobile technology can lead to decreased productivity and underreported work hours. What's an employer to do? Avoid these 7 deadly sins when tackling mobile technology in the workplace.

1. Allowing employees to use mobile technology to work remotely without a policy or procedure in place for reporting time.

Non-exempt employees who regularly check or respond to emails away from work must be compensated for their time. Just ask Verizon, T-Mobile and Black & Decker who have been sued for unpaid overtime related to smartphone use. To avoid such claims, employers who do want non-exempt employees to work off-site should not provide mobile devices and should limit remote access to computer and email systems. If the nature of the business necessitates remote access, the employer must have a clear policy and procedure for reporting the time. However, merely having a policy is not sufficient. Employers must train employees on the policy and monitor employees' remote activity to ensure they are reporting all time worked.

2. Failing to combat smart phone addiction.

Sometimes actual work gets in the way of updating Twitter accounts, posting on Instagram, messaging on Facebook, and pinning on Pinterest. If you find work is not getting done and that every time you turn around employees seems to have their smart phone in hand instead of the report you asked for 2 weeks ago, it is time to implement a policy that places reasonable limits on the usage of smart phones in the work place. An outright ban will be almost impossible to police and will likely cause a significant employee backlash. Instead, adopt a policy that allows employees to access their devices on break time or in the case of emergencies. Discipline employees who fail to respect the rules.

…adopt a policy that allows employees to access their devices on break time or in the case of emergencies.

3. Turning a blind eye to inappropriate content or usage of mobile technology.

In case you were wondering if "sexting" in the workplace is a legitimate concern, please look no further than your local and state politicians. The Equal Employment Opportunity Commission has settled at least 2 cases for more than a half million dollars that were brought against employers based upon sexually explicit text messages sent by supervisors to other employees. The same concern exists with respect to internet usage. Employees who openly access sites on mobile devices in the workplace may create a hostile work environment. Employers cannot ignore this type of conduct merely because the mobile device belongs to the employee or because the conduct in question may have occurred off the company's premises. A mobile device policy should prohibit employees from using technology (whether employee-owned or company-owned) to share offensive comments or images. Likewise, an employer's anti-harassment policy should clarify the policy covers an employee's usage of mobile technology.

4. Ignoring security risks.

Every employee who has access to or who can download confidential business information on their mobile device creates a security risk. Mobile devices are subject to malware, phishing scams, and hackers. In addition, a disgruntled employee can take information stored on his or her mobile device, such as client contact lists, pricing information, and other trade secrets, to a new employer who also happens to be a competitor. Employers should take measures to implement data encryption technology, strengthen passwords, and protect access from unauthorized individuals. Mandating that employees utilize certain antivirus and protective software is also important to guard against security risks. With respect to insider espionage, employers should require confidentiality agreements that cover data on mobile devices. Employers may also want to consider technology that allows data to be wiped remotely if an employee fails to return a mobile device or to delete confidential information.

5. Conducting surveillance or accessing personal data without proper notice and consent.

While employers should not ignore improper use of mobile technology, they also should not assume they have free rein to spy on their employees' personal smart phone usage. Common law privacy interests come into play when an employer seeks to access information on an employee's personal device. In addition, the federal Electronic Communications Privacy Act of 1986 prohibits unauthorized interception of or access to electronic communications, including telephone, email and computer usage. Such concerns are not present when the employee is using a company-owned device. Nevertheless, employers should have policies that notify employees that their emails, text messages, and internet usage on company-owned devices are subject to monitoring.

6. Failing to address safety issues.

In 2012, Coca-Cola was held liable for a $24 million judgment in a car wreck case involving a salesperson who was driving a company car while talking on the phone. Coca-Cola had a policy requiring drivers to use a hands-free device. However, the company was still found liable for inadequate training and monitoring. The Coca-Cola case demonstrates not only the need to implement a policy regarding use of smart phones while driving or engaging in other high risk work activities, but to adequately train and monitor your workforce. It may also be worthwhile to invest in technology that disables cell phones in a moving vehicle and returns them to service when the vehicle stops.

7. Encouraging employees to BYOD (bring your own device) without a corresponding policy.

A significant number of employers allow or expect employees to use their own mobile devices for work instead of providing a company-issued device. Allowing employees to bring their own devices can lower costs and improve efficiency, but it also creates complicated issues. For example, when an employee separates does the employer have the right to inspect the employee's device and remove proprietary data?

Every employee who has access to or who can download confidential business information on their mobile device creates a security risk.

Such circumstances show why employers should have a BYOD policy if they allow employees to use personal devices for work. At a minimum, a BYOD policy should identify which employees are permitted to use their own devices, require employees to agree with the employers' terms and conditions of usage, explain the employer's right to access, monitor and delete information from employee-owned devices in appropriate circumstances, and establish requirements and protocol for data protection, such as the mandatory use of passwords and other protective software.

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FLSA Retaliation Claim by Advocate for Co-Worker Approved by Fifth Circuit

BY GEORGE W. LOVELAND II

In *Starnes v. Wallace*, No. 15-41341 (5th Cir. Feb. 24, 2017), the U.S. Court of Appeals for the Fifth Circuit reversed a summary judgment decision in favor of the employer and found instead that there was sufficient evidence to support the advocate's claim that she had been retaliated against in violation of the Fair Labor Standards Act ("FLSA"). In addition, based on a recent decision by the Fifth Circuit in another case, the court ruled that emotional distress damages are available to plaintiffs asserting FLSA retaliation claims.

WHAT HAPPENED

LeAnn Starnes ("Starnes") worked as a Risk Manager in the corporate office of Daybreak Ventures, LLC ("Daybreak"), a supplier of thousands of employees to nursing homes in Texas. Starnes's job involved investigating work-related injuries, reviewing and responding to workers' compensation and discrimination claims, and attending mediations for lawsuits involving the Risk Management Department.

In late October or early November 2010, Starnes was approached by Ludy Estrada ("Ludy"), a co-worker, who complained that her husband, Vincent Estrada ("Vincent"), a maintenance worker employed by Daybreak, was not being paid the travel time and overtime to which he was entitled. After reviewing the information Ludy provided, Starnes told her to see HR Director Shelton ("Shelton"), because Starnes believed that FLSA claims were handled exclusively by HR. Ludy was afraid to report the claimed violation to Shelton, so Starnes met with Shelton a few days later on Ludy's behalf. During the meeting, Starnes told Shelton that Daybreak was "violating the law by the way [it was] paying Vincent." Before New Year's, Daybreak President Rich ("Rich") pulled Starnes aside to discuss Vincent's situation. Starnes told Rich that "it looked to [her] like Daybreak was breaking the law" by the way it was paying Vincent. Rich assured Starnes that the company would resolve the matter.

Around this time, Daybreak began requiring each employee to sign a job description, and Starnes signed hers, which was dated October 25, 2010, on March 11, 2011. The new job description required Starnes to report "all allegations and findings related to violations of federal and state law" to Rich. This requirement was not in her prior job description.

As of November 2011, Vincent's claim had not been paid, so Ludy went to Shelton and demanded that the claim be paid. At Shelton's request, Ludy gave him a written request for nearly $69,000 in owed wages, and Shelton told her that he would give it to Rich. On December 9, 2011, Rich called Ludy into his office to discuss the amount of Vincent's claim. Even though Starnes had not been involved in the dispute since her conversation with Rich in December 2010, and was not present at the meeting, Rich stated that Starnes "was to blame" for the problems with Vincent's wage claim. The discussion between Rich and Ludy became loud and heated, and Starnes could hear Rich from her office. After Ludy became upset, Rich agreed to resolve Vincent's claim and assured her that she would not lose her job. In the last week of 2011, Daybreak settled Vincent's claim for $40,000.

On January 6, 2012, 10 days after the settlement payment, Daybreak laid off Starnes, Ludy, and three other employees due to "financial difficulties." However, one of the three other employees, Rich's son, had taken a position at another company prior to the layoff, and the other two employees were reinstated into other positions at Daybreak.

THE COURT'S DECISION

Starnes and Ludy filed a lawsuit asserting claims for retaliation under both the FLSA and a Texas statute regulating nursing homes. A preliminary motion by Daybreak resulted in the dismissal of the state law claims and the claims for emotional distress and punitive damages. The district court denied Daybreak's later motion for summary judgment regarding Ludy's FLSA retaliation claim, and Ludy settled her claim before trial. The district court reached the opposite conclusion regarding Starnes's claim, finding that she did not engage in protected activity because reporting the wage dispute was within her job duties, and that causation could not be established because more than a year had elapsed between her reporting activity and her termination. Starnes appealed to the Fifth Circuit.

With respect to whether Starnes was acting in accordance with her duties, the Fifth Circuit first concluded (a) that Starnes had made a complaint; (b) that Daybreak recognized she had made a complaint; and (c) that this complaint could subject Daybreak to a later claim of retaliation. According to the appellate court, Starnes' two assertions that Daybreak was "violating the law" by not paying Vincent for travel time and overtime were sufficiently clear and detailed for Daybreak to understand them as assertions of rights protected by the FLSA and a call for their protection. The court then determined that there was a genuine dispute as

to which job description applied when Starnes made her complaints to Shelton and Rich. Even though the new job description requiring her to report violations of law to Rich was dated October 25, 2010, Starnes did not sign it until several months later, and there was no evidence regarding when the new job description was delivered to Starnes. Further, the reporting requirement was not in the prior job description, and her conduct in reporting the violation to HR was consistent with that job description and her primary responsibility involving insurance and workers' compensation claims. Thus, after Ludy refused to go to Shelton with the complaint as Starnes suggested, Starnes took the complaint to Shelton, not Rich, on Ludy's behalf.

Regarding whether the delay between Starnes's protected activity and her termination precluded a causal connection between the two events, the court declined to rely solely on temporal proximity, particularly where nearly identical evidence of pretext was found sufficient to allow Ludy's FLSA retaliation claim to proceed. The court concluded that the evidence of pretext the district court relied on – the questionable validity of Daybreak's proffered "financial difficulties" justification for the terminations of Ludy and Starnes, where they were the only employees to complain about FLSA violations and were the only ones terminated within a month of Starnes being blamed for the Vincent wage problem and within 10 days of the $40,000 settlement payment – was proof of a retaliatory motive for Starnes's termination. In the court's opinion, that evidence was sufficient to establish causation and to overcome the delay between protected activity and termination, and warranted its conclusion that Starnes's FLSA retaliation claim should proceed.

LESSONS TO BE LEARNED

Be aware of the potential for claims of retaliation resulting from attempts by employees, either on their own behalf or on behalf of a co-worker, to enforce rights under employment statutes and take any such claims seriously. The FLSA, along with the National Labor Relations Act, were the first employment-related statutes to include anti-retaliation provisions when they were passed by Congress in the 1930s. Today, virtually all employment-related statutes contain such provisions. For FY 2016, the EEOC reported that 42,018 charges alleging retaliation were filed with the agency, a whopping 45.9% of all charges filed.

Specifically regarding Starnes v. Wallace, the decision highlights the seriousness with which the courts, here the Fifth Circuit, address allegations of protected activity retaliation by employers. In its decision, the court pointed out that it was looking at the "big picture," and it used all the facts favorable to Starnes to reverse summary judgment and allow her FLSA retaliation claim to proceed.

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I-9 Forms – What is Document Abuse and Who is Protected?

By BRUCE BUCHANAN

The Office of Chief Administrative Hearing Officer (OCAHO) issued an interesting decision involving "document abuse" which was recently renamed "unfair documentary practices" in the new regulations. *U.S. v. Mar-Jac Poultry, Inc.,* 12 OCAHO no. 1298 (March 2017). It was a split decision with the Administrative Law Judge (ALJ) for OCAHO finding Mar-Jac Poultry committed many document abuse violations while other allegations were not document abuse.

Background

The case started with a charge filed by Edwin Morales, a TPS recipient, with the Office of Special Counsel for Immigration-Related Unfair Employment Practice (OSC) alleging document abuse. Thereafter, OSC informed Mar-Jac that it was expanding its investigation to include "a possible pattern or practice of document abuse against non-U.S. citizens."

Based on its investigation, the OSC filed a complaint with OCAHO alleging in Count I – Mar-Jac committed document abuse against Morales and "other similarly situated persons" and Count II – Mar-Jac engaged in a "pattern or practice of discrimination in the hiring and Employment Eligibility Verification Process."

Who is a Protected Individual under Document Abuse?

In its Motion for Summary Judgment, Mar-Jac argued the statute only prohibits document abuse as it relates to protected individuals - U.S. citizens (USCs), recent lawful permanent residents (LPRs), refugees and asylees. Since Morales was a TPS recipient with an Employment Authorization card (EAD), Mar-Jac argued he was not protected regarding the document abuse allegations. The ALJ determined that "claims of document abuse with an intent or purpose of discriminating against an individual based on citizenship status is limited to claims against statutorily-defined protected individuals as defined in 8 U.S.C. § 1324b(a)(6)." Since Morales was on TPS, the ALJ agreed with Mar-Jac's defense that Morales was not a protected individual.

Was there a Pattern or Practice?

Concerning Count II – whether Mar-Jac engaged in a pattern or practice of discrimination, Mar-Jac conceded its HR employees required potential applicants to present a photo ID and a Social Security card to obtain an employment application. Without such, Mar-Jac did not provide them with an application.

Also, if a person checked a box on Section 1 of the I-9 form as a LPR or authorized to work and presented Lists B and C documents, such as a driver's license and Social Security card, respectively, the Mar-Jac HR employee would request the LPR card or EAD. Mar-Jac's witnesses stated this request was made to make sure the card was valid and they believed E-Verify required non-USCs to present their LPR card or EAD. The witnesses acknowledged they were mistaken in their beliefs. Mar-Jac conceded USCs were not requested to present a particular document.

Mar-Jac argued it had a legitimate, non-discriminatory reason, to verify the correct box was marked in Section 1, when its HR employees asked non-USCs to see their List A document – LPR card or EAD. Mar-Jac asserted it followed this practice in order to have Sections 1 and 2 accurately completed and to avoid non-compliance with the completion of the I-9 form, which could cause civil and criminal liability. Mar-Jac also argued it required non-USCs to present a List A document because of a mistaken belief that E-Verify required it; thus, it had no discriminatory intent. Furthermore, Mar-Jac asserted requests related to E-Verify are not covered by 8 U.S.C. § 1324b; thus, no violations should be found.

To establish a case of document abuse, a complainant must show that, in connection with the employment verification process, an employer has requested from the employee more or different documents than those required or has rejected otherwise acceptable valid documents and either of these actions was undertaken for the purpose or with the intent of discriminating against the employee on account of the employee's national origin or citizenship status.

Was their Intent to Discriminate?

One of the issues in the case was the requisite intent required to prove the violations. OSC asserted *U.S. v. Life Generations,* a 2014 OCAHO decision, stated an intent to discriminate means that a person "would have acted differently but for the protected characteristic." Mar-Jac argued it had no intent to discriminate because a significant portion of its workforce were non-USCs. Furthermore, their actions were merely designed to "assist the applicant in satisfying the requirements of the Form I-9." The ALJ stated discriminatory intent does not require "malice, ill will, or a malevolent nature."

As for Mar-Jac's remaining defense that it completed Section 1 as the preparer/translator and thus it needed to verify the information listed to avoid civil and criminal liability, the ALJ stated the preparer/translator attestation only requires an attestation that the information contained therein is true and correct to the best of the preparer/translator's knowledge, not to "absolute metaphysical certainty or even actual knowledge" regarding the information from the preparer/translator.

The ALJ concluded the testimony of Mar-Jac's HR employees established direct evidence of discriminatory intent – the requests to see a DHS-issued document, LPR card or EAD, was motivated by the individual's LPR or work-authorized status. Thus, the ALJ found the company "engaged in prohibited documentary practices by virtue of both specifying the kind of document that a new hire had to present, and requesting an additional document when a new hire sufficiently presented Lists B and C documents. Moreover, Mar-Jac's documentary practices were carried out for the purposes of satisfying employment verification requirements of 8 U.S.C. § 1324a(b)." Since Mar-Jac was unable to overcome the direct evidence, the OCAHO ALJ found Mar-Jac engaged in a pattern or practice of document abuse.

Takeaway

This decision shows employers can be mistaken on the proper manner to complete the I-9 form. Therefore, it is crucial that employers obtain regular training from immigration counsel on immigration compliance issues.

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HIGHLIGHTS

1


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1 Sherry Johnson, SHRM-SCP, CAE, SHRM Field Services Director, was the guest speaker at the NWMS SHRM Meeting. Her topic was "The Future of HR: Promoting Business Success in a Changing Global Workplace." It was approved for 1.00 SHRM PDC and 1.00 SHRM Business Credit. **2** NWMS SHRM Chapter elections were held at the meeting. Sherry Johnson officiated the swearing in of the new officers. (L-R) Janna Rogers-President-Elect, Courtney Leyes-Legislative, Casey Barnett-Certification, Sonya Walton-Membership, Vickie Richmann-Treasurer, Melissa Drennan-President, Sherry Johnson-SHRM Field Services Director, and Chris Byrd-Northern District Director, MS SHRM.


3


4


5

3 Janna Rogers, President-Elect, welcomed members to the meeting and discussed the Chapter elections. **4** Chris Byrd, SHRM-SCP, SPHR-CA, MSSHRM Northern Director, attended the meeting. Chris is also the Senior Human Resource Manager for BorgWarner Transmission Systems Inc. in Water Valley, MS. **5** (L-R) Janna Rogers, NWMS SHRM President-Elect, and Sherry Johnson, SHRM-SCP, CAE, SHRM Field Services Director.


6

6 NWMS SHRM Chapter members attended the meeting.

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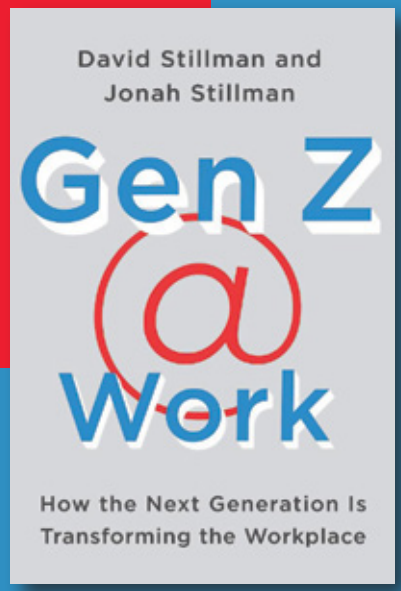
BOOK LOOK

Who is Gen Z?

BY PAULA HAYES



Gen Z @ Work is a pioneering look at the next up and coming demographic of the workforce, Generation Z. The book is exceptional in that its writers, David Stillman and Jonah Stillman, are a father and son duo, and they switch off writing parts of the book. The reader gets a first-hand glimpse into the work perspectives of two different generations, Generation Z and Generation X.

It is estimated that currently there are slightly over 70 million Gen Zers, which means that the workforce is already being transformed by their presence. We should not confuse Gen Z with the Millennials who are born roughly between 1981 and 1997. The dates of Gen Z follow on their heels, born between 1995 and 2012. Stillman and Stillman place a great emphasis on how Gen Zers were raised. The authors give performance observations as an easy to follow example of how Gen Zers may emotionally respond within the workplace, and how that response is really the product of how Gen Zers may have been treated in their households as children and young adolescents. Let's suppose an employer says to a Gen Z employee that he or she will provide performance monitoring. The Gen Z employee hears something different in the term "monitoring" that a Millennial or a Gen X worker would hear. To the Gen Z employee, monitoring equates to "helicopter parenting"; raised by Gen X parents who used technology to keep tabs, and know every in and out of the details of their Gen Z kids' lives, now when a Gen Z, all grown up and employed, hears that the word "monitoring" an assumption forms in the Gen Z worker's mind that constant feedback on a variety of levels will be handed out— "the level of frequency and access that Gen Z, and their parents, has had to their performance at school will have a dramatic impact on expectations at work." When the Gen Z worker does not receive that constant feedback "for most it will feel like something is broken. Not having access to constant custom feedback will be a stressful situation because we won't know where we stand. We will want to pull out our smartphone and get an up-to-the minute customized report on our progress." This example points not only to how Gen Z workers have been molded by their Gen X parents' almost neurotic tab keeping on their lives through technology, but it also points to a set of expectations that Gen Z workers carry into the workplace.

The Echo Chamber of Customization

This leads to what Stillman and Stillman call the "Echo Chamber" of customization. If you stop and think about what an echo chamber is, it is a space that for whatever reason is enclosed to the point where one in it can hear one's own voice reverberate back onto itself. Gen Zers have grown up with the ability, through technology, to create a very customized world of personal choices, ranging from music, social media, television shows, movies, clothing, and food options. Everything for Gen Zers is customizable to their likings and preferences—"On the one hand, Gen Z has more exposure to the world than other generations had at their age. On the other hand, a world so customized to what they want…can become quite small." Generation Xers lived in what I would call a Burger King world, where one can *make the whopper your way, and get what you want, how you want it, when you want it.* But, Gen Zers, live in an Apple, Hulu, Netflix, YouTube, Twitter world, where one can micro-customize choices down to a minutia of details. Options and choices do not always enlarge perspective; sometimes, when customization becomes too easy, options and choices produce the reverse effect of scaling down a person's world instead of opening it up. There is a flexibility and adaptability, all very good qualities to have, that Gen Zers see within their reach of a customizable technological lifestyle, which can lead to all kinds of new creativity, growth, and positive change in companies, if harnessed and guided properly. Yet, by the same token, the customizable lifestyles that Gen Zers are accustomed to can lead to a path of limited vision. It is all about what one does with customization; but a company that fails to realize that Gen Zers have grown up in, and continue to live and operate in a customizable world will not understand how best to appraise the talent of Gen Zers.

The Seven Characteristics of Gen Z

Failing to recognize that Gen Zers will tackle the workforce differently than their Millennial predecessors and Generation X parents, can result in huge costs. When Generation X replaced the Baby Boomers, companies were largely under-prepared for the repercussions; many companies had seemed to operate with the mistaken belief that the Baby Boomers were the be-all-end-all to the workforce and there was no one unlike them coming after them; it simply wasn't true. Generation Xers opened up the eyes of companies to realizing each generation of worker is distinctly unique from the one before it. To help with identifying what sets Gen Zers apart, Stillman and Stillman offer seven characteristics that define the Gen Z worker.

One, Gen Zers are **"Phigital,"** meaning the line between technology and everything else in the world is not there for them. For Gen Zers, technology and life are one and the same.

Two, they believe in **"hyper-customization,"** where everything can be tailored to their own individual needs.

Three, and rather surprisingly, Gen Zers are highly **realistic;** but then again this makes sense, given that they have grown up in a post-9/11 world, they live with the constant threat of terrorism, and they understand the world can be a dangerous and painful place, so they do not entertain many illusions about life. They believe in living life to the fullest, but they do not ignore reality either.

Four, they possess what the authors call **"FOMO,"** or the "fear of missing out" on something; this means they are seeking the next best adventure in life, and this can be a useful tool in business, as FOMO can lead to innovation and the ability to see trends ahead of others.

Five, they are **"Weconomists,"** or hold the belief in sharing resources; think of how Uber is rapidly replacing taxis or the idea of "pay it forward."

Six is "DIY," or "Do It Yourself," thinking; if you cannot think of a way to do it better or figure it out on your own, then move past it, or look for another way to do it.

Seven is **"Driven,"** for the Gen Zer, as part of its realistic outlook, realizes there is an enormous amount of competition and is driven toward that competition. There is a stick-to-it attitude evident in Gen Zers that perhaps has been missing from the Millennials.

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Five Ways to Tell if You Have a Dream Boss

By HARVEY DEUTSCHENDORF

The person at the top sets the atmosphere that permeates the organization, including the emotional temperature. Not only does a leader with low emotional intelligence have a negative impact on employee morale, it directly impacts staff retention. We know that the biggest reason that people give for leaving an organization is the relationship with those above them.

With a boss that has the characteristics below, you will never want to leave.

Non Defensive and Open

Insecure leaders that demonstrate low emotional intelligence (EI) become defensive and take it personally whenever they encounter anything that appears to them as criticism and a challenge to their authority. One of the problems that leaders in organizations complain of is getting accurate information from those under them. The higher up an organization a leader is, the worse the problem becomes. Fear of upsetting their superiors with bad news, which could be taken out on the messenger, subordinates often temper and hide the worst of the situation. Having a leader who is non- defensive and open makes it easier for those under them to give them honest and straight information.

A secure leader with a healthy dose of EI strives to listen, understand and find out what is behind behaviors and actions of those they are responsible for managing. They listen before they respond and if they don't understand something ask open ended questions that are meant to gather more information. As opposed to leaders with low emotional intelligence, they don't make it about them, but look for ways to make the situation better for everyone involved.

Aware of their own emotions

Leaders who are oblivious to their own emotions and how they are impacted by them have no awareness of how their words and actions affect others. This can have a very devastating effect on staff morale and lower productivity. Highly emotionally intelligent leaders are aware of strong emotions and avoid speaking out of anger and frustration. If they feel the urge to give in to strong emotions in their interactions with others, they give themselves a time out, waiting until their emotions have leveled off and they have had a chance to think about the situation.

Adept at picking up on the emotional state of others

A skilled and empathetic leader that is aware of other's emotions is able to use that awareness to develop stronger relationships with those they manage. Even if delivering bad news, they are able to cushion the impact by simply letting the receiver know that they are aware of how they might be feeling. Leaders with high EI are able to put themselves in place of the person receiving criticism or negative feedback, allowing them to give it in a way that might be more beneficial and less destructive. If there is something positive in the situation they are aware of it and use it to temper the bad news. If the situation allows they always give the employee who has make a bad decision or mistake to redeem themselves and end the conversation or meeting on a positive note. Given the opportunity to learn from their mistakes and improve themselves many well-meaning loyal employees have gone on to become valuable members of an organization.

Available for those reporting to them

Good leaders make themselves available to those reporting to them both physically and emotionally. They are responsive to the fact that there will be times that those reporting to them will be having difficulties outside of work that will impact them. Death of family members, friends, relationship breakdowns and all sorts of life crisis will affect virtually everyone at work at times. Emotionally open and secure leaders understand are there for support during these times. They are not pushovers, however, and can be assertive when they feel they are being taken advantage of. Their awareness will help them differentiate between a legitimate need which requires empathy and someone who is trying to take advantage, in which case assertiveness is needed.

Able to check their ego and allow others to shine

While possessing self-confidence, high EI leaders do not have a need to demonstrate their own importance or value. They chose their words carefully and speak and act out of concern for their staff, and the health of the organization. They do not have the need to have their ego massaged and are not looking for ways to take credit for the work of others. Understanding that people work better when they feel appreciated, they are always looking for ways to show give positive feedback and rewards for a job well done. Secure in their own abilities, they are not threatened by those under them and actively seek to help them work to the best of their capabilities and rise up the organization.

Harvey Deutschendorf is an emotional intelligence expert, internationally published author and speaker. To take the EI Quiz go to theotherkindofsmart.com. His book *THE OTHER KIND OF SMART, Simple Ways to Boost Your Emotional Intelligence for Greater Personal Effectiveness and Success has been published in 4 languages.* Harvey writes for FAST COMPANY and has a monthly column with HRPROFESSIONALS MAGAZINE. You can follow him on Twitter @theeiguy.

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