



Cape Cod Human Resources Association

HR NEWS

Cape Cod Human Resources Association P.O. Box 665, Hyannis, MA 02601

January 2009

www.cchraonline.com

Meeting Review

Wage and Hour Law

"Wage and hour law is a hot button. This area of the law is where we are seeing tremendous amounts of litigation. People are coming together in class action suits."

Kathryn M. Murphy of Murphy, Hesse, Toomey & Lehane, LLP provided an informational and enlightening summary presentation on wage and hour law stating, "I urge you to look at the law." She specifically outlined Chapter 149 of the Mass Wage Statute including section 152A on service charges and tips, the Fair Labor Standards Act, and the Mass Equal Pay Act. To demonstrate her points she provided case law.

Significant categories of wage claims are failure to Pay Work Time (pre and post shift activities, work during breaks, work at home, on-call, training time, etc.) and misclassification of employees as exempt.

"The biggest issue is the problem of measuring a day's work." Ms. Murphy said, "Engrave the definition of Work Time in your head." *Employees must be compensated for any time they are suffered or permitted to work.* Meal breaks are a "huge area of exposure." Do your research on what breaks must be taken and paid, the classification of on-call time, work at home, cell-phone or e-mail use during non-work hours and training time.

Other work time issues employers must monitor include employees reporting to work early or staying late, splitting a ½ hour meal period into two 15 minute breaks, poor time keeping practices and working during meal breaks.

Here are Ms. Murphy's suggestions on managing Work Time:

Be clear about work time and work schedule.

Be clear regarding employee's rate of pay.

Do not commit to provide any type of compensation which is non-intended; check benefit plans.

Check language in policies and agreements with employees.

Keep accurate records of work time.

Prohibit employees from signing in early.

Prohibit employees from working during breaks.

Prohibit employees from coming in and starting work "off the clock."

Require employees to review their time records for accuracy.

Have an express policy addressing overtime and unauthorized work time.

Maintain current and up-to-date job descriptions.

The misclassification of employees is another significant category of wage claims. Some common misclassification mistakes include failure to pay on a "salary basis," mistaken belief that any employee paid on a "salary" basis is exempt, and overuse of executive exemption.

CALENDAR OF EVENTS

This Season's Speaker Series

Building A Strong Workforce

January 29, 2009 7:30 am

Panel Discussion

HR As A Strategic Partner

Bring your CEO, CFO, COO and Business Partner to learn about successful HR partnerships and their value to business growth!

Carol Sim, President and Chief Executive Officer, Rehabilitation Hospital of the Cape and Islands

Del Pontremoli, Human Resources Director, Rehabilitation Hospital of the Cape and Islands

Linda Markham, Human Resources Vice President, Cape Air/Nantucket Airlines

Daniel A. Wolf, President and CEO, Cape Air/Nantucket Airlines

Laurie Colwell, Human Resources Director, Onset Computer

Jack Sample, Director of Sales and Marketing, Onset Computer

What do you want to know? Send your questions for the panelists to Ann Egan, ann@thenavigationgroup.com

Holiday Inn, Route 132 Hyannis

Meeting Review, Cont.

There has been an increase in class action suits; employees vs. employers. A Class Action is an action brought on behalf of a "class" of employees who are similarly situated. Employers now face treble damages, attorney fees and back pay. Be careful of settlements. They don't always stop subsequent lawsuits by employees.

When complaints arise they are investigated by the MA Attorney General. They report active enforcement of MA wage laws and issue citations for violations. The AG is responsible for the 2008 advisory regarding MA Independent Contractor Law MA Misclassification Law. This can be obtained on the AG website. This advisory outlines who an employee is vs. an independent contractor. Ms. Murphy states "Be very careful when hiring independent contractors. Look to see if they are working over 40 hours a week."

You can obtain more information on hour and wage law at the Murphy, Hesse, Toomey, Lehane LLP website: www.mhlt.com as well as the websites listed in this newsletter.

Kathryn M. Murphy practices labor and employment law emphasizing wage and hour, employment discrimination, employment contracts, and related litigation at the firm of **Murphy, Hesse, Toomey & Lehane LLP**.



Scholarships Available

The Scholarship Reimbursement Program is available to CCHRA members and students who are residents of Cape Cod pursuing education in Human Resources. Apply today at www.cchraonline.com. ■

Resources

Web Sites

www.workforce.com

www.shrm.org

US Office of Personnel Management (FLSA)
Opm.gov

US Department of Labor
Employment Standards Admin.
Wage & Hour Division
Dol.gov/esa/whd/

MA Attorney General
Mass.gov/ag

Book of the Month

Hug Your People, Jack Mitchell

Up-Coming Events

2009 SHRM Employment Law & Legislative Conference
Washington DC March 9-11

MEMBER SPOTLIGHT

Susan Partridge is the HR Manager at Convention Data Services (CDS) in Bourne and is also the Secretary of CCHRA. She joined CDS (and CCHRA) in 2005 when she relocated to Cape Cod.

Sue graduated from Bridgewater State College in 1991 with a BA in Communication. She was an HR Specialist at Plymouth Savings Bank from 1992 – 2000, then did a short stint as a generalist at a manufacturing company in Brockton before transitioning to Children's Hospital Boston where she was an Employee Relations Specialist from 2001 – 2005. She earned her SPHR designation in 2002.

Sue is also a member of the Personnel Board for the Town of Barnstable.

Sue and her husband are empty-nesters who made the move to West Barnstable from Plainville MA after their youngest went off to college in Florida. She was thrilled to see the position at CDS posted on NEHRA at the time when they were considering this move. The timing could not have been better! They love living on the Cape, where they used to vacation, and feel extremely fortunate to be surrounded by the sand and sea all the time!

Sue is happy to say that her son, Derek, graduated from University of South Florida in Tampa in December! She and her husband are happy that the long, college road is over. Her older son, Jeff, lives and works in Providence, RI.

Sue enjoys the beach and boating and walking her dog on the beach. She wishes she had more time to travel to foreign countries. She recently visited Prague and Madrid and has plans for London in 2010! Sue is an avid reader and is part of a book club. She is also a 'new' golfer and enjoys golfing at Holly Ridge in Sandwich

Membership

Dues are \$60/\$165. For more information contact Laura Johnson, Membership Chair at ljohnson_ma@hotmail.com or 508-385-3009.