



Cape Cod Human Resources Association

HR NEWS

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

September 2008

www.cchraonline.com

Meeting Review

Katherine A. Hesse, a partner with the law firm of Murphy, Hesse, Toomey & Lehane, has practiced primarily in labor and employment and employee benefits law for over 25 years. She is a graduate of Smith College and the Boston University School of Law. MHTL Partners is located in Boston, Quincy and Springfield and is known throughout the Northeast as a leader and trusted advisor in business, litigation, employment, labor, educational and governmental law. They provide legal information and updates on their website at www.mhtl.com

Be Ready for a "Fun Ride"

Katherine Hesse presented to a packed room of attentive HR professionals. The two hours passed quickly as she provided us with a wealth of information on updated employment and labor laws and workplace trends.

Ms. Hesse began by stating we are in for "a fun ride" this upcoming year when it comes to Labor and Employment Law. Her very informative presentation focused on wage and hour, leaves of absence/non-productive time, retirement plans, OSHA, NLRB in non-unionized settings, immigration, health care reform, Mass Security Breach Notice law, investigations and EEOC/MCAD. Ms. Hesse included related case law to demonstrate her points.

Ms. Hesse recommended that wage and hour be HRs priority for the year. She states there will be "emphasis placed on state enforcement of the misclassification of employees." This includes independent contractors vs. employees, exempt vs. non-exempt and "salaried basis." Employers risk stricter penalties in MA of up to treble damages (April 14, 2008, the treble (triple) damages bill Senate Bill 1059). "If you're going to clean house in one area this is the place to focus." She suggests re-examining all contract positions regularly, perform exemption tests regularly, watch out not to convert salaried workers into hourly workers, and if you have a problem fix it now using good legal advice.

The second area of focus Ms. Hesse suggests is your 401(k) plans. As employers move towards define contribution plans it is important to select and monitor vendors very carefully and keep it simple. Use legal council to review the plans for "firestone" language, to maintain ERISA fiduciary coverage and fidelity bond, document your vendor selection process, review written contracts, get full disclosure of fees, provide participants with clear disclosures and education. Ms. Hesse warns us we may see an increase in class action suits related to retirement plans so remember "process is the key."

CALENDAR OF EVENTS

This Season's Speaker Series

Building A Strong Workforce

September 25, 2008

Creative Recruiting Panel Discussion

Moderator: Elizabeth Harris-Moritz
The Executive Suite

Linda Markham, HR VP Cape Air

Jennifer Barbants, HR Manager
Ocean Edge

P.J. Layng, Executive Recruiter

Del Pontremoli, Director HR
Rehabilitation Hospital of Cape Cod

Please send your questions for the panel to Elizabeth Harris-Moritz at ejharris@theexecutivesuite.com

*Holiday Inn, Route 132 Hyannis
7:30 a.m.*

Membership

Rates are \$60/\$165. For more information contact Laura Johnson, Membership Chair at ljohnson@shepleywood.com or 508-862-6291.

Meeting Review, Cont.

The third area of focus is maternity and paternity leave. "The intersection of many different federal and state laws continues to pose issues." Your company leave policies should be gender neutral and applied equally to all employees. It is important to differentiate between the state required leave and company policy. The MA Maternity Leave Statute has been a point of policy discussion and clarification on the statute from MCAD is still pending. Watch for updates on www.mhlt.com or consult with your legal counsel. This is a good time to have all policies reviewed for compliance and check your processes for clarity and consistency of implementation.

There are several other updates Ms. Hesse called to our attention.

Make sure you are using the new I-9 form effective December 26, 2007.

There are five documents that are no longer acceptable for immigration documentation. Check the MHLT website. Several technical corrections were made to Health Care Reform Chapter 205 of the Acts of 2007 and to Fair Share contributions.

Governor Patrick signed comprehensive identity theft legislation into law in August 2007 called the Breach Notice Law. Hesse anticipates civil suits will increase. To learn more go to www.mass.gov Retaliation cases continue to rise. It is suggested you encourage training of supervisors to avoid complaints.

Ms. Hesse closed with her infamous Ds related to investigation and inspection. They are: Dignity, Discretion, Disclosure, Due Process, Due Diligence, Documentation, Delay, Discrimination and Deceit. All of them are important considerations during an investigation.

Katherine Hesse's presentations are so popular she has been invited to return again next year. Until then, enjoy the ride!

Legal Resources

www.mhlt.com Murphy, Hesse, Toomey & Lehane LLP

www.mass.gov Massachusetts State Department

www.mass.gov/ago: MA Attorney General Office

www.dol.gov Federal Department of Labor

www.shrm.org Society for Human Resource Management

SCHOLARSHIPS AVAILABLE

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

Member Spotlight

We would like to highlight CCHRA members in our newsletter. Please send your bio, article or news to Michele Rocray at Michele@pleasantbayassoc.com

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