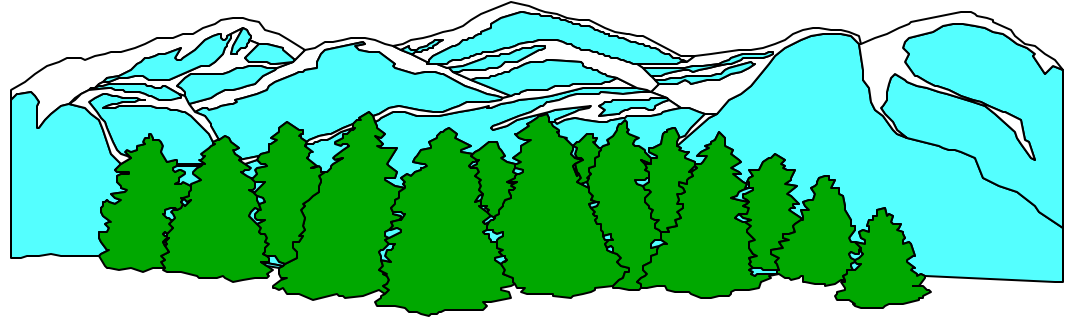


SEPTEMBER 7, 2004

# VALLEY CHAPTER

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AFFILIATE OF



SOCIETY FOR  
HUMAN  
RESOURCE  
MANAGEMENT

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## Greetings From The President



**MARK YOUR CALENDARS**----September's NRV SHRM meeting will be at a different time, location and day: Wednesday, September 15 Ryan's Restaurant, Christiansburg. Lunch will start at 11:30 a.m.

The change for this month is a "let's try it and see how it works". The goal is to reach as many members as possible, and see if a lunch meeting is popular with the membership. The program will be great: Steve Zimmerman, our SHRM Virginia State Council President, will be presenting the program Career Planning for HR Professionals. As a principal with Challenger, Gray and Christmas, Steve is well-versed in his subject. You'll love his enthusiasm for our profession and will leave feeling energized about your career. When you get to Ryan's, go through the lunch line, then come to the meeting room. Please RSVP to Teresa Harless, Chapter Secretary.

Many thanks to Rick Groesbeck from Virginia Tech Industrial Engineering for a very interesting program in August on "Measuring Customer Satisfaction". He gave us some new ways to look at the data we can get from employee surveys.

Response to the NRV SHRM Community Connections has been great. So far 13 members have indicated interest in participating. Thanks to Raquel Becerra and Peggy Dunn who came to our last meeting to explain how we can help in workforce readiness classes through this program. If you are thinking about volunteering an hour or so of your time to participate, please let me know. It looks like we'll start up in October.

The Second Annual Bob Griffin Golf Outing on August 27 was a great success. Mike Driscoll and Gary McDaniel did a great job of coordinating this event with the Roanoke Chapter. Fourteen teams played at Hanging Rock Golf Course on a beautiful Friday.

Plans for the Fall include a lunch-time program on workplace diversity---watch for details! By the way, our website is a great way to check on Chapter news and events. Kathy Janosko of Advanced Logic Industries and Chapter board member is doing a wonderful job of managing the website. Check it out if you haven't looked at it recently: [www.nrvshrm.com](http://www.nrvshrm.com). Don't forget that Chapter members can post HR job openings on the website for free.

I look forward to seeing you at the meeting. Have a great month!

Best wishes,  
Lorraine Wachsmann

### **Alerting Local Police To Dangerous Traffic Conditions Caused By Picketers Not ULP**

By Joseph M. Rainsbury of LeClair Ryan Flippin Densmore

It is an unfair labor practice (“ULP”) for an employer “to interfere with, restrain, or coerce employees in the exercise of their right” to picket. Sometimes, however, the picketing activity may create dangers to public safety (e.g., traffic hazards). In *CSX Hotels, Inc. v. NLRB*, 2004 U.S. App. LEXIS 15391 (4th Cir. July 26, 2004), the Fourth Circuit explored whether and when an employer may seek the assistance of local law enforcement to address genuine concerns about safety hazards created by picketing activity.

#### ***Facts***

CSX Hotels, Inc. operates the Greenbrier resort near White Sulphur Springs, West Virginia. It contracted with Lynch Construction to erect a maintenance facility on its property. The International Union of Operating Engineers, Local No. 132 (“Union”), determined that Lynch Construction was violating its agreement with the Greenbrier by hiring employees represented by a different labor union to work on the project. Accordingly, it decided to set up a picketing stand outside the Greenbrier.

The Union first picketed the Greenbrier’s employee entrance, which abuts U.S. Highway 60—a major thoroughfare. Several of the picketers parked their cars along Highway 60 in an unauthorized zone. A Greenbrier security officer notified local police about the picketers. The police officer ordered the picketers to move their vehicles, which they did. He also warned them that an assembly permit might be required. The officer told them he would check at the police station whether such a permit was required at that particular location. The picketers, however, remained at the site.

The general manager of the Greenbrier later approached the picketers and told them to move their picketing stand from the employee entrance to the entrance then being used by Lynch Construction (also abutting Highway 60). The picketers moved their operations to this entrance. Soon thereafter, three police officers returned to the picketing site and informed the Union members that they needed to obtain an assembly permit. The officers directed the picketers to leave the premises, which they did without incident.

The process for obtaining the requisite permit was time-consuming and further complicated by the fact that the police chief, who needed to approve the permit request, was out of town. Frustrated by these delays and convinced that it had a First Amendment and statutory right to picket, the Union decided to resume picketing at the Lynch Construction entrance without a permit.

As it happened, the police chief returned to work the morning the picketing resumed. After being notified of the picketing by Greenbrier employees, the police chief visited the scene. He determined that the picketing posed a traffic hazard. However, he was overruled by the city attorney, who had concluded that the picketing was lawful. Later that day, the Greenbrier’s attorney faxed a letter to the city attorney requesting that he enforce the assembly permit requirement. The city attorney demurred, citing the limited number of protesters and questions concerning whether the protest site even fell within city boundaries. Thus, the picketers were able to continue their protest.

#### ***The Fourth Circuit’s Decision***

The Union filed a ULP charge with the National Labor Relations Board (“NLRB”), claiming that the Greenbrier unlawfully interfered with its picketing rights under the National Labor Relations Act when it reported its traffic concerns to the police chief and when it attorney requested the city to enforce its permit requirement. An administrative law judge found in favor of the Union, and a divided panel of the NLRB affirmed.

On appeal, the Fourth Circuit refused to enforce the NLRB decision. It disagreed with the NLRB’s conclusion that the Greenbrier was not justified in contacting the police. Rather, it held that the record supported the resort’s contention that the picketing created a potentially dangerous traffic condition. It noted the speed of passing vehicles, the proximity of picketers to those vehicles, the dangers caused by motorists attempting to read the signs displayed by the pickets, and other circumstances that presented traffic hazards. In light of such facts, the Fourth Circuit concluded that the Greenbrier was justified in contacting the police to have them assess the situation. It held that the Greenbrier’s action did not, therefore, constitute an unfair labor practice.

#### ***Bottom Line***

Although this decision should reassure employers that they can—without fear of § 8(a)(1) liability—seek police assistance where

picketing creates a hazardous traffic condition, it is important not to read too much into this case. This does **not** change the general rule that an employer's exclusion of union representatives from public property violates § 8(a)(1) where the union is engaged in protected activity. Rather, it simply creates a limited exception to that rule where the employer genuinely believes that the protected activity creates a potentially dangerous traffic situation.

Joe Rainsbury may be contacted at [joseph.rainsbury@leclairryan.com](mailto:joseph.rainsbury@leclairryan.com). A version of this article first appeared in *Virginia Employment Law Letter* ([www.hrhero.com](http://www.hrhero.com) or 800-274-6774), which is edited by LeClair Ryan's Employment & Labor team.

## ANNOUNCEMENTS



### **CHANGE IN MEETING LOCATION & TIME FOR SEPTEMBER**

The September NRV SHRM meeting will be held on Wednesday, September 15<sup>th</sup> at 11:30 a.m. This change is on a trial basis. After the meeting we will be asking for your input on the change. Please contact Teresa Harless, Chapter Secretary, at [tharless@blacksburg.gov](mailto:tharless@blacksburg.gov) to RSVP for this meeting.

### **nrvshrm.com JOB DATA BANK**

The chapter now has a new job posting area on the web site. Members may begin placing job postings immediately. The data bank can be found under the "Position Postings" link on the web site. Please use the following guidelines when submitting a posting:

#### **Guidelines to Post Vacancies**

1. All postings should be submitted by e-mail via the website to Kathy Janosko, Web Site Administrator ([kathy@ali-inc.com](mailto:kathy@ali-inc.com))
2. 30 day posting limit unless notified to remove sooner.
3. We accept HR related postings only.
4. NRV-SHRM is not responsible for editing the job posting. We reserve the right to determine appropriateness. NRV-SHRM does not endorse any advertiser/submission.
5. There is no charge to members of NRV-SHRM.

### **ARTICLES FOR SHRM NEWSLETTER**

Articles for each month's newsletter are due on the last Tuesday of the previous month. For the **October** newsletter, the deadline would be **September 28th**. They may be sent to the Chapter's secretary, Teresa Harless, at [tharless@blacksburg.gov](mailto:tharless@blacksburg.gov). Teresa's telephone number is 540-558-0721.

### **CHAPTER FINANCIAL REPORT**

Beginning balance as of June 3, 2004	\$8,825.88
Ending balance as of July 30, 2004	\$8,530.80

**Visit [nrvshrm.com](http://nrvshrm.com) for a detailed listing of transactions.**

### **BOARD MEETING MINUTES**

Minutes – August 3, 2004, 5:15 pm, Warm Hearth Kroontje Health Care Center

Attending: John Yearick, Kathy Janosko, Brenda Farmer, Jim Hungate, Jim Cowan, Christy Porterfield, Lorraine Wachsman reported:

Raquel Bacerra and Peggy Dunn will come to the August chapter meeting to appeal for member participation in the Community Connections Program. Wachsman, Cindy Hale and Karen Edmonds attended the Virginia State SHRM Council meeting. One of the suggestions from that meeting was to try different meeting times and places to enhance member participation. The board decided to have a lunch time meeting in September, at Ryan's. Christy Porterfield will investigate setting up a Round Table in October based on diversity training

done at Virginia Tech. Brenda Farmer reported that membership was up to 114, with 54% national SHRM members.

John Yearick reported that plans were in place for the golf outing on August 27.

## MEETING NOTICES

### CHAPTER INDUSTRIAL MEETING

Be sure to mark your calendars to attend the next meeting that will be held on **Tuesday, September 14th** at IHOP in Christiansburg. **PLEASE NOTE THAT THE MEETING LOCATION HAS CHANGED FROM STONE'S CAFETERIA TO IHOP (INTERNATIONAL HOUSE OF PANCAKES) IN CHRISTIANSBURG.** IHOP is located between Ryan's and Red Lobster in Christiansburg. This meeting is held on the second Tuesday of every month and meets at 7:00 a.m. Contact Bruce Jennings at (540) 674-7461 or [bruce.Jennings@volvo.com](mailto:bruce.Jennings@volvo.com) for more information on the Industrial Meeting.

### BOARD OF DIRECTORS MEETING

The monthly Board meeting will be held on **Tuesday, September 7th** at the Warm Hearth Kroontje Health Care Center. This meeting will begin at 5:15 p.m. Any Board member who cannot attend should contact Teresa Harless at 558-0721 or e-mail to [tharless@blacksburg.gov](mailto:tharless@blacksburg.gov)

### 2004 Calendar of Events & Annual Meeting Schedule

DATE	SPEAKER	TOPIC
January 15, 2004	Charlotte Mason, Innovative Management Group	Coaching for Success
February 19, 2004	Victor Cardwell and Tom Winn with Woods, Rogers	Legislative Update
March 18, 2004	Eric Melniczek, Career Assessment Coord., Radford University	Experimental Learning and Career Development Center
April 15, 2004	Members of the Radford University Student SHRM Chapter	NRV SHRM Chapter Salary Survey
May 20, 2004	Camille Wright-Miller	Strategic Human Resources*
June 17, 2004	FMLA Legal Update Clint Morse, LeClair, Ryan, Flippin, Densmore, Morse, & Jessee	Legislative Update
July 15, 2004	Jonathan Ward International Director, SHRM Virginia State Council	Outsourcing Issues
August 19, 2004	Richard Groesbeck, PH.D., Research Assistant Professor with the Industrial and Systems Engineering at Va. Tech.	Panning For Gold In Your Customer And Employee Survey Data*
September 15, 2004*	Steve Zimmerman, SHRM VA State Council President	Career Planning for HR Professionals
October 21, 2004	1) Todd Leeson, Gentry, Locke, Rakes & Moore 2) Round Table discussion: diversity & employee relations issues (tentative)	Legislative Update
November 18, 2004	TBA	TBA
December 2, 2004	Christmas Social	

**\*Please note that the meeting will be held at 11:30 a.m. at Ryan's Steak House in Christiansburg**

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 - PLEASE BE SURE TO REPLY TO THIS E-MAIL FROM TERESA HARLESS ([tharless@blacksburg.gov](mailto:tharless@blacksburg.gov)) BY  
 - MONDAY, SEPTEMBER 13<sup>TH</sup> IF YOU ARE PLANNING TO ATTEND THE SEPTEMBER MEETING.  
 - PLEASE INDICATE IF YOU WILL BE BRINGING ANY GUESTS. IT IS IMPORTANT THAT WE GET AN  
 - ACCURATE COUNT OF PEOPLE SO THAT FOOD AND HANDOUTS CAN BE PREPARED  
 - ACCORDINGLY. THANK YOU!  
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