

September 16, 2006

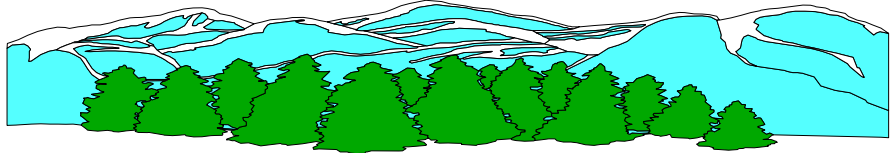
NEW RIVER VALLEY SHRM CHAPTER

AFFILIATE OF



SOCIETY FOR
HUMAN
RESOURCE
MANAGEMENT

www.radford.edu/~nrv-shrm/



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Greetings From The President

NRV SHRM Chapter Members,

At long last Fall has arrived. The leaves are turning color, children have returned to the classroom, football, hot chocolate, and my lawn has slowed its relentless march toward the heavens!

I would like to thank Mr. Steve Miranda, for his presentation during our lunchtime Chapter meeting last month. We had approximately 39 members and guests join us that day. Steve's message focused on 7 (really 8!) Human Resource strategic concepts that as professionals, we can overlook if not careful. In one instance, Steve noted that we must "Understand the business", and as a support function to our organizations, we sometimes should drive the business. Some of that can be accomplished as a change agent, and some can be accomplished through effective communications. Steve closed, noting that HR doesn't have to be so hard, but with all that we as professionals deal with, it's not so easy as well.

I wish to thank all those who supported the Wytheville Business Forum on September 26, 2006. The speakers were excellent and very knowledgeable in their respective fields. In addition to the great presentations, the Wohlfahrt Hans Dinner Theater provided lunch, which also included some excerpts from the *Oklahoma* production. It was great fun as well as educational.

The Chapter is also holding a raffle for the benefit of the SHRM Foundation. We have an autographed football by Frank Beamer, and an autographed copy of Susan Meisinger's book, *The Future of Human Resource Management*, up for grabs.

I look forward to seeing everyone at the Hampton Inn on October 19th.

Sincerely,
Michael Driscoll, SPHR

Meeting Notices

CHAPTER INDUSTRIAL MEETING

Be sure to mark your calendars to attend the next meeting that will be held on **Tuesday, November 14th** at IHOP 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 for more information on the Industrial Meeting.

BOARD OF DIRECTORS MEETING

The monthly Board meeting will be held on **Tuesday, November 7th** at 5:15 p.m. in the LeClair Ryan Flippin Densmore offices located at 2000 Kraft Drive Suite 1000. Any Board members that cannot attend should contact Teresa Harless at tharless@blacksburg.gov.

Chapter Financial Report

CHAPTER FINANCIAL REPORT

Beginning balance as of August 31, 2006	\$7,307.15
Ending balance as of September 30, 2006	\$7,382.15
Scholarship Balance	\$1,065.00
Certificate of Deposit	\$2,500.00
Total Assets	\$10,947.15

Visit nrvshrm.com for a detailed listing of transactions.

ARTICLES FOR SHRM NEWSLETTER

Articles for each month's newsletter are due on the last Tuesday of the previous month. Articles for the November newsletter are due October 26, 2006. They may be sent to the chapter's secretary, Teresa Harless, at tharless@blacksburg.gov. Teresa's telephone number is 540-558-0721.

nrvshrm.com JOB DATA BANK

The Chapter now has a job posting area on the web site. 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 Mike Aamodt (maamodt@radford.edu)
2. There is a 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.

There is no charge to members of NRV-SHRM.

ANNOUNCEMENTS

SHRM Foundation Annual Campaign

At our next chapter meeting on October 19, 2006, we will be drawing for a "Beamer" football autographed by Frank himself and Sue Meisinger's book "Future of HR Management" autographed by Sue. The proceeds from this event will support the SHRM Foundation. So bring some "fun" money to the meeting. You may be one of the winners! See you then!

Board Meeting Minutes From October 3, 2006

Michael Driscoll, Christy Porterfield, Keith LaShomb, Jim Cowan, Karen Edmonds, Lorraine Wachsman, Chuck Swain, Bruce Jennings

- Jim Cowan revised the Chapter by-laws to conform to the template provided by National SHRM. The Chapter approved the by-laws. We will distribute and vote on them at the October Chapter meeting on October 19th. Jim is still working with a graphic artist to develop a new logo for the Chapter.
- Christy Porterfield announced that she attended the last Chamber meeting and following that meeting she felt that SHRM should host a round table discussion for the benefit of the other Chamber members. Christy also noted that we have run out of speaker gifts. Mike Driscoll mentioned that the SHRM Bookstore would be at the State Conference and that we could pick up some more coffee mugs as gifts.
- Karen Edmonds reported that we had collected over \$100 at the last lunch meeting in raffle monies toward the Foundation
- Bruce Jennings asked Chuck Swain to make reminder calls for the next Industrial Committee meeting. Bruce then walked through each Board position up for election and asked the attendees if they were interested in being on the ballot. Bruce noted the potential openings and asked for volunteers to help make calls to those not at the meeting. Keith, Chuck, and Christy volunteered to assist Bruce.
- Christy indicated that she would be attending the 2006 Volunteer Leadership Conference in November.
- Mike Driscoll asked that each Board member visit the National SHRM website and review the topics in the Volunteer Resources Toolbox site for their area of responsibility to assist in our Chapter Achievement Plan. Mike will work with those who are not standing members with National SHRM.

Legislative Update

NLRB Holds Non-Union Arbitration Clause Violates Employee Section 7 Rights Under NLRA

By Clinton S. Morse

LeClair Ryan, A Professional Corporation

U-Haul of California, like many non-union employers maintained and regularly distributed to employees a policy entitled "U-Haul Arbitration Policy" and a document entitled "U-Haul Agreement to arbitrate." The policy stated that it

covers all disputes relating to or arising out of an employee's employment with UCC or the termination of that employment. Examples of the type of disputes or claims covered by the UAP include, but are not limited to, claims for wrongful termination of employment, breach of contract, fraud, employment discrimination, harassment or retaliation under the Americans with Disabilities Act, the Age Discrimination and Employment Act, Title VII of the Civil Rights Act of 1964 and its amendment, the California Fair Employment and Housing Act or any other state or local anti-discrimination laws, tort claims, wage or overtime claims or other claims under the labor code, or any other legal or equitable claims and causes of actions recognized by local, state or federal law or regulations.

The policy as written did not specifically mention claims under the National Labor Relations Act, it did not explicitly restrict employees from filing unfair labor practice charges with the NLRB nor had the policy ever been applied to try to prevent employees from filing charges with the NLRB. Nonetheless, U-Haul recently found out, no doubt to its surprise, that its policy violated this Act.

In U-Haul Company, 347 NLRB No. 34 (June 8, 2006), the Board stated that in determining whether a challenged rule is unlawful, it first looks to see whether the rule explicitly restricts activities covered by Section 7 of the Act which recognizes employee rights to engage in concerted activities for their mutual aid and protection. Even if the rule does not explicitly restrict

Legislative Update Continued

activity protected by Section 7, the Board then looks to see if “reasonable employees would construe the language to prohibit Section 7 activity,” whether the rule was promulgated in response to union activity, or whether the rule had been applied to restrict the exercise of Section 7 rights.

In finding the U-Haul arbitration policy unlawful, the Board recognized that the language in the policy did not explicitly restrict employees from filing unfair labor practice charges with the Board. However, the Board concluded that the breath of the policy language, referencing claims under “federal law or regulations,” would reasonably be read by employees to prohibit the filing of unfair labor practice charges and that employees would reasonably read the policy to require employees to resort to the Company’s arbitration procedures instead of filing charges with the Board.

The Board rejected the Company’s argument that the rule only restricted employees from filing legal actions in a “court of law” noting that the arbitration policy did not “specifically exclude an action governed by an administrative proceeding such as one conducted by the National Labor Relations Board.” It is however interesting that the Board does not find such express exclusion necessary with respect to union arbitration clauses in collective bargaining agreements.

This decision, unless it is appealed and ultimately overturned in federal court, raises immediate problems for numerous employers who currently maintain non-union arbitration policies for the resolution of employment disputes under numerous federal and state laws. Such employers directly risk being found in violation of the NLRA. While employers could put disclaimers in their non-union arbitration policies that the policy does not prohibit employees from filing charges with the NLRB, employees covered by such policies will also be free to file wage and hour claims with the Department of Labor, EEOC charges with the Equal Employment Opportunity Commission, safety complaints with OSHA and claims with other federal employment agencies. The NLRB has ruled that concerted employee appeals and complaints lodged with governmental agencies and officials in the areas of occupational safety, employment discrimination and labor standards also constitute protected concerted activities under Section 7 of the NLRA. And if employees are free to do so, will that undermine the effectiveness of non-union arbitration clauses as a single focus for resolution of all employment related disputes? Finally, once employees covered by non-union arbitration clauses file charges with the NLRB, what will the NLRB do with them? Will the Board defer the unfair labor practice charge to the non-union arbitration process just as it often does under union arbitration provisions? If the Board proceeds to process the charge, will the Board be free to obtain individual relief for employees or simply injunctive-type relief?

As a practical matter, employers with non-union arbitration clauses should immediately amend them to explicitly state that the policy does not prohibit employees from filing charges or initiating administrative proceedings with the National Labor Relations Board or other government agencies. While the Board stated in its decision that it was not holding that all non-union arbitration clauses are illegal under the Act, this case creates many new and unanswered labor law issues for employers.

The author may be contacted at Clinton.morse@leclairryan.com or 540-510-3023.



12 Ways Employers Get in Trouble

AFTERNOON CHAT SERIES

PRESENTED BY THE OFFICE FOR FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP)

Location: Squires Student Center,
Brush Mountain A & B

Date: October 25th

Time: 1-3 p.m.

William Thorpe, District Director
Heidi Lacy, Compliance Officer
Ronald Young, Compliance Officer

Have a burning question for the OFCCP? Please send questions to eooffice@vt.edu no later than **October 17th.**

SPONSORED BY CENTER FOR ACADEMIC ENRICHMENT AND EXCELLENCE, OFFICE FOR
EQUAL OPPORTUNITY & UNIVERSITY ACADEMIC ADVISING CENTER

NRV Job Fair Expo



**Wednesday
October 18
1 p.m. to 6 p.m.**

**THE EVENT CENTRE
1655 Roanoke Street
Christiansburg**

Meet with on-site career counselors and representatives who will answer your job-search questions.

Don't miss this great opportunity to meet with 60+ business/organization employment recruiters!

Dress for success and plan ahead! Check out our website to discover the top ten ways to make a great first impression.

www.nr.edu/nrvjobfairexpo

- **Over 60 businesses represented**
- **Submit resumes and applications**
- **On-the-spot interviews**
- **Networking potential**

**NEW RIVER VALLEY
JOB FAIR
Expo**

Sponsored by:

Local Departments of Social Services (NRV Partners for Self-Sufficiency),
Department of Rehabilitative Services, New River Community College,
NRCC Workforce Development, NRCC Job Placement Services,
New River/Mount Rogers Workforce Investment Board, New River Valley Planning District Commission,
New River Valley Competitiveness Center, Virginia Employment Commission,
New River Valley Career Pathways

2006 Calendar of Events & Annual Meeting Schedule

DATE	SPEAKER	TOPIC
January 19, 2006	James Cowan with LeClair Ryan Flippin Densmore	Legal Update
February 16, 2006	Fred Starling	How To Train Supervisors and Managers in Counseling, Discharge and Discipline
March 16, 2006	Christy Porterfield	Diversity
April 20, 2006*	Jack Smalley, Express Business Solutions	The Performance Appraisal: Friend or Foe?
May 18, 2006	James Cowan, LeClair, Ryan, Flippin, Densmore	Legal Update—Reasonable Accommodations and the ADA
June 15, 2006*	Todd Leeson—Gentry Lock	Legal Update—What HR Professionals need to know about Employment Lawsuits
July 20, 2006	Larry Linton, Senior Safety Consultant—Dept. of Labor & Industry	Hazard Recognition in the Workplace
August 17, 2006	Katherine Elam—Junior Achievement & Kevin Carlson, Assoc. Prof. for Dept. of Management at VT	Junior Achievement in the Workplace & HR Metrics and Analytics
September 21, 2006*	Steve Miranda	The Quick and the Dead: HR Strategies for the New Millennium
October 19, 2006	Barry O'Donnell—Virginia Tech; Assoc. MBA Director	Behavior Interviewing: Customize the Interview
November 16, 2006*	TBA	TBA
December 7, 2006	Holiday Social	

All NRV-SHRM Breakfast Meetings will be held at the Hampton Inn, Christiansburg at 7:30 a.m. unless otherwise noted

*The NRV SHRM meeting on November 16th will be a lunch meetings that will be held from 12:00 noon until 1:30 p.m. The locations and details regarding the lunch meetings will be sent to members at a later date.