

MODERN MANAGEMENT

Volume 5, Issue 5, May 2011

SEMINAR INVITATION

Lemle & Kelleher, L.L.P.

presents

Modern Management Briefing

a half-day labor and employment law seminar.

Thursday, May 12, 2011, 8:30—11:30 a.m.

Lemle & Kelleher, L.L.P.

Pan-American Life Center

601 Poydras Street, 21st Floor
New Orleans, Louisiana 70130

\$15.00 per attendee



AGENDA

- 8:30 to 8:45 a.m. Registration
- 8:45 to 9:00 a.m. Introduction, *E. Fredrick Preis, Jr.*
- 9:00 to 9:40 a.m. The Ever-Expanding Area of Disability Discrimination, New EEOC Regulations
Eve B. Masinter
- 9:40 to 10:20 a.m. New Union Organizing Tactics in the 21st Century, How Labor Organizations Are Putting to Work Favorable Labor Board Decisions
Joseph Hugg
- 10:20 to 10:30 a.m. Break
- 10:30 to 11:10 a.m. Complying with the Wage & Hour Laws, Areas of Focus by the Department of Labor
E. Fredrick Preis, Jr.
- 11:10 to 11:30 a.m. Question and Answer Session

PRESENTERS

E. Fredrick Preis, Jr.

Eve B. Masinter

Joseph Hugg

REGISTRATION

To register please contact:

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NO ADA CLAIM FOR
WORKER WITH DIABETES

No American with Disabilities Act claim for an employee of Albertson's after failing to show he was terminated due to his Type I Diabetes.

The United States Court of Appeals for the Eleventh Circuit held that Vincent Palmer failed to show that he was "substantially limited in one or more of his major life activities by the physical impairment of Type I Diabetes." Additionally, he failed to establish termination due to disabilities discrimination.

The Court found that Palmer was fired for "legitimate, nondiscriminatory reasons – insubordination for failure to attend a mandatory meeting and uncooperative attitude" as stated by Albertson's. In order to proceed with an ADA claim, Palmer had to show that he was disabled, a qualified individual, and subjected to discrimination because of his disability.

PAYCHECK FAIRNESS
ACT IS BACK

Originally introduced in 2009, the Paycheck Fairness Act ("Act") has been reintroduced to the Senate and House.

The Act seeks to strengthen federal pay equity laws and ensure equal pay for equal work and would amend the Fair Labor Standards Act to expand the remedies available in matters involving pay discrimination based on sex. The Senate and House bills are identical.

*The use of this seal is not an endorsement by the HR Certification Institute of the quality of the program. It means that this program has met the HR Certification Institute's criteria to be pre-approved for recertification credit.

FIVE STATES NOW PROHIBIT USE CREDIT HISTORY

Hawaii, Illinois, Maryland, Oregon and Washington prohibit employers from using an individual's credit history for hiring or other purposes except under very limited circumstances. Currently, nearly half of the 50 states have introduced legislation addressing workplace credit reports.

REVISION OF VETERANS' AFFIRMATIVE ACTION RULES PROPOSED

A proposed rule to strengthen the existing regulations requiring federal contractors to take affirmative action in employing specific categories of protected military veterans was introduced by the Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP"). The proposed rule published on April 26 provides detailed steps federal contractors must take in order to comply with the Vietnam Era Veterans' Readjustment Assistance Act and its amendments. Additionally, it increases the data collection obligations and requires the establishment of hiring benchmarks to measure the effectiveness of the federal contractor's affirmative action efforts regarding protected veterans. The OFCCP is soliciting public comments within 60 days. The federal contractors' affirmative action efforts are a top Obama administration priority.

UNPAID INTERNSHIPS—QUALIFICATIONS

The U.S. Department of Labor has identified 6 criteria an employer must use to identify if an intern is exempt from the Fair Labor Standard Act's minimum wage coverage. All six must be met. The six criteria are:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

LEMLE & KELLEHER LABOR AND EMPLOYMENT ATTORNEYS

The labor and employment attorneys in our firm have a national and international practice representing union and non-union companies in almost every industry. Our labor attorneys have developed strong experience and hands-on knowledge of how business really works.

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ABOUT LEMLE & KELLEHER, L.L.P.

Lemle & Kelleher offers responsive, innovative, and experienced legal representation covering a broad range of practice areas. For more information please visit www.lemle.com.

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