

LEGAL ADVERTISEMENT
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MODERN MANAGEMENT

SEMINAR INVITATION



Greater New Orleans
Hotel & Lodging
Association

Lemle & Kelleher, L.L.P. in conjunction with GNOHLA presents
Modern Management Briefing,
a half-day labor and employment law seminar.

The Hilton St. Charles Hotel

Wednesday, November 16, 2011, 8:30—12:00 Noon
333 St. Charles Avenue
New Orleans, LA

\$65.00 for GHNOLA members \$90.00 for non-members

AGENDA

- 8:30 a.m. to 9:00 a.m. Registration
- 9:00 a.m. to 9:15 a.m. Introduction by E. Fredrick Preis, Jr.
- 9:15 a.m. to 10:00 a.m. How to Handle an Unemployment Compensation Claim
Presented by: Joe Hugg
- 10:00 a.m. to 10:45 a.m. Strengthening your EEO Program against Workplace
Discrimination
Presented by: Eve B. Masinter
- 10:45 a.m. to 11:00 a.m. Break
- 11:00 a.m. to 11:45 a.m. Staying out of Trouble with the Wage & Hour Law
Presented by: Fred Preis
- 11:45 a.m. to Noon Questions and Answers

PRESENTERS

E. Fredrick Preis, Jr.
Eve B. Masinter
Joseph Hugg

REGISTRATION

To register please contact:
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Target audience: Human resource representatives, supervisors and managers.

Application filed for 2.5 hrs HRCI general continuing education credit.

Volume 5, Issue 11, November 2011

NLRB MEMORANDUM
REVIEWS SOCIAL MEDIA
LITIGATION

Acting General Counsel of the National Labor Relations Board issued a memorandum reviewing unfair labor practice cases considered by the Division of Advice. The cases reviewed involved the use of Twitter, Facebook, YouTube and other forms of social media. The memorandum explained that the NLRA protects employees who engage in concerted activities and gives them some leeway to express their views in a manner that employers may consider rude, discourteous or disloyal.

The memorandum covered cases in which it was found that corporate policies limiting employee expression through social media or other channels could lead reasonable employees to believe that company rules restricted them from engaging in activity that the federal labor law protects. Overbroad policy statements are generally found unlawful as they limit protected activity.

SSA ANNOUNCES COST OF
LIVING INCREASE

The Social Security Administration announces a 3.6% cost of living adjustment in 2012. The increase is based on the increase in the consumer price index for clerical workers. The maximum amount of a worker's earnings subject to social security taxes will increase to \$110,100 beginning in 2012.

GOVERNMENT AGENCIES CRACK DOWN ON EMPLOYERS FOR MISCLASSIFYING WORKERS

Both federal and state agencies are focusing on misclassification of workers as independent contractors and not as employees, putting a major burden on human resource professionals to make sure their companies are doing it right. The Department of Labor's Wage and Hour Division, the Internal Revenue Service and agency leaders from 11 state governments entered into an agreement to combat misclassification, which allows them to share information and cooperate in enforcement efforts.

The benefits to employers who hire independent contractors, as opposed to employees, are numerous. They do not have to pay federal and state unemployment insurance, Social Security and Medicare taxes on behalf of independent contractors. Fair Labor Standards Act employee protections do not apply to independent contractors. Often employers do not have to pay state worker's compensation premiums on behalf of independent contractors. Contractors do not count in the number of employees that trigger coverage thresholds under most federal employment statutes.

IRS OFFERS PROGRAM FOR CORRECTING WORKER MISCLASSIFICATION

The Voluntary Classification Settlement Program (VCSP) launched September 21 is intended to offer a simpler solution to a complicated problem. The new initiative allows employers to reclassify their workers to be in compliance with regulations, yet avoid facing penalties and interest for three years of misclassification. Employers are allowed to make a minimal payment covering past tax obligations (generally 10%), rather than wait for an IRS audit. The details are unveiled in IRS bulletin 2011-64, http://www.irs.gov/irb/2011-41_IRB/ar14.html.

In order to be eligible for the program, an applicant must not be under audit by the IRS, the Department of Labor or a state agency concerning the classification of these workers. The applicant must have filed all required Forms 1099 for the workers for the previous three years and consistently treated the workers in the past as non-employees.

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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