

### **"NO-MATCH" LETTER RULE *STILL* ON HOLD!**

An injunction issued in August by a federal judge -- putting on hold the Department of Homeland Security's final rule on dealing with "no-match" letters -- was extended last week for another 10 days. The rule would require employers, in order to avoid significant penalties, to follow specified steps within 90 days after notification that an employee's name and Social Security number do not match Social Security Administration records.

### **FMLA: PAY RATE WHILE ON "LIGHT DUTY"**

Under the Family and Medical Leave Act (FMLA), if an employee is temporarily transferred to an "alternative position" to better accommodate intermittent or reduced schedule leave, the position must have equivalent pay and benefits. *By contrast, what if the alternative position is a "light duty" assignment?* The 7th Circuit Court of Appeals recently ruled that "The FMLA does not . . . dictate the wage rate for an employee to receive while on light duty under a workers' compensation plan." The court said "light duty" is only mentioned in the FMLA regulations as a component of a workers' compensation program (employees may receive payment through workers' comp while on FMLA leave). After a workplace injury, the employee received \$9.00/hour for light duty office work instead of the \$12.23/hour she earned as a utility driver.

### **REVERSE RELIGIOUS DISCRIMINATION**

In a 1993 case, *Shapolia v. Los Alamos National Laboratory*, our 10<sup>th</sup> Circuit Court of Appeals recognized legal actions for reverse (non-adherence) religious discrimination. Under Title VII of the Civil Rights Act, an employee must ordinarily show that s/he is in a "protected class" (observes a particular religion, for example). In *Shapolia*, however, "the court reasoned that the 'protected class' showing required in a traditional race or sex discrimination claim does not apply to this type of non-adherence or reverse religious discrimination claim because it is the religious beliefs of the employer, and the fact that the employee does not share them, that constitute the basis of the religious discrimination claim" (quoting a recent 9<sup>th</sup> Circuit case which relied upon *Shapolia*). Teach your supervisors that specific religious beliefs as well as another's non-adherence to their same religious beliefs CANNOT be the basis for any employment decisions.

### **ELIMINATING UNEXPIRING GREEN CARDS**

As part of the Bush Administration's crackdown on illegal immigration, the U.S. Department of Homeland Security, Citizenship and Immigration Services, proposed rules to eliminate Permanent Resident Cards (Forms I-551) containing no expiration date. The rules would establish a 120-day window for lawful permanent residents to either apply for a replacement/expiring card or to apply for citizenship. The public would be given advance notice of the termination date of cards with no expiration date. Permanent residency status and current work authorization would not be revoked, but expired cards would no longer be acceptable evidence of, for example, authorization for new employment. Cards issued before 1977 have already been "recalled," and cards issued since August 1989 are required to be renewed every 10 years. However, an estimated 750,000 cards with no expiration date were issued from 1977 to 1989.

### **OWNERS, OFFICERS & MANAGERS: BEWARE!**

The U.S. 1st Circuit Court of Appeals confirmed recently that corporate officers may be held personally liable for violations of the Fair Labor Standards Act (FLSA). Finding minimum wage and overtime violations, the lower court had awarded 282 employees \$141,270 in back wages, and an equal amount in liquidated damages. The court found that the owner/officer had improperly kept two different sets of timekeeping books, and was "principally in charge of directing employment practices, such as hiring and firing employees, requiring employees to attend meetings unpaid, and setting employees' wages and schedules. He was thus instrumental in 'causing' the corporation to violate the FLSA." The court relied on the FLSA definition of "employer," which includes "any person acting directly or indirectly in the interest of an employer in relation to an employee." Personal liability can be imposed under certain other laws as well.

### **UADA TO COVER SMALLER EMPLOYERS?**

A local employment attorney recently told the Utah Legislature's Business and Labor Interim Committee that a bill (as yet unwritten) will likely be introduced in the 2008 session to lower the 15-employee threshold for employer coverage under Utah's Antidiscrimination Act (UADA). *Stay tuned!*

# HOW TO CREATE HIGHLY-MOTIVATED, ENGAGED EMPLOYEES



## SEMINAR ANNOUNCEMENT

In today's competitive labor market, employee motivation and engagement have emerged as critical, if not deciding, drivers of business success. A recent SHRM study reports that employee motivation and engagement significantly affect employee retention, productivity, and loyalty, as well as customer satisfaction and company reputation. Startlingly, however, according to a Gallup survey, only 29% of employees in the typical organization are truly motivated and engaged. Imagine the impact on your company's business success if you could turn that number around and have 70% of your employees - or more - truly motivated and engaged. How would this improve your company's quality, productivity, profitability, and overall results?

In this enlightening seminar, attendees will learn key steps and best practices for creating highly-motivated, engaged employees, which in turn will fuel their companies' business success. Professional trainer, CEO, and HR Consultant **Ken Spencer** of HR Service, Inc. will teach attendees how to:

- ▶ Recognize symptoms and causes of employee burnout
- ▶ Understand and implement various models of employee motivation
- ▶ Resolve employee motivational challenges
- ▶ Prevent employee burnout and re-energize motivation and commitment
- ▶ Utilize effective reinforcement techniques to drive desired results and behaviors
- ▶ Apply techniques to engage employees



**Who should attend:** Any company representative responsible to oversee and/or develop employees, including human resource professionals and company executives, leaders, managers, and supervisors.

**Certification:** This program is approved for 3.5 credit hours toward PHR, SPHR, and GPHR recertification through the Human Resource Certification Institute (HRCI).

<b>Where:</b> Salt Lake Airport Hilton 5151 W Wiley Post Way Salt Lake City, Utah	<b>When:</b> Thursday, November 15, 2007 Seminar: 8:00 a.m. - 12:00 noon Registration & breakfast buffet - 7:15 - 8:00 a.m.
---	---

Send registration to:  
The Employers Council  
175 West 200 South, Suite 2005  
Salt Lake City, Utah 84101

Register by fax: 801.364.8915

Email registration information to: [info@ecutah.org](mailto:info@ecutah.org)

Please register the following for **How to Create Highly-motivated, Engaged Employees** at \$99 per Council member (\$169 per non-member). Registration includes materials and full breakfast buffet. Enrollment is limited to available space. Refunds will be given if cancellation is received at least one week prior to seminar.

Name _____	Company _____
Name _____	Address _____
Name _____	City/State/Zip _____
Name _____	Phone _____ Fax _____

Email address(es) of the person(s) to receive reminder: \_\_\_\_\_  
\_\_\_\_\_

Check enclosed \_\_\_ Bill Me \_\_\_ Charge credit card Visa \_\_\_ Master Card \_\_\_ American Express \_\_\_  
Credit card number \_\_\_\_\_ Expiration Date \_\_\_\_\_ Total \$ \_\_\_\_\_  
Name as shown on card \_\_\_\_\_ Signature \_\_\_\_\_