

BRIEFING: TRICKY WORKERS' COMP ISSUES

Workers' compensation claims continue to be a never-ending challenge for employers. To learn new insights into managing such claims, join us at our next Legal Breakfast Briefing, *Keys to Managing a Workers' Compensation Claim: Light Duty, MMI, Terminations, and Other Tricky Issues*. Expert attorney Mark Dean (of Blackburn and Stoll) will explore best practices for light duty programs. He will also address tricky issues surrounding maximum medical improvement (MMI), and whether it is ever safe to discipline or terminate an injured employee. This briefing will be held on Tuesday, January 29, from 8:00 a.m. to 9:30 a.m. at *The E-Center* in West Valley City. It is pre-approved by the Utah State Bar for 1.5 CLE hours. The price is \$69, which includes full breakfast and materials. To register, call our office or use the form at www.ecutah.org/lbb.pdf.

LOWERING UNEMPLOYMENT COSTS

In 2008, the Utah unemployment insurance tax rate for an employer – as a percentage of the "taxable wage base" – will range from 0.1% to as high as 9.1%. The key to lowering your unemployment tax costs is to keep your benefit costs down. Generally, the most effective way to do this is to hire the right person in the first place. To do this, you may need to audit your personnel practices. Screen applicants to be sure they are properly suited for the position. Establish clearly written policies, and have the employee sign an acknowledgment that indicates s/he has received the policies and knows where to find clarification. Once you have taken these steps, do not condone violations of established policies, and be consistent in disciplinary actions. Be sure to properly document discipline, attendance and anything else relevant to an employee's work conduct and/or termination. When it is clearly documented that an employee knowingly violated company policy – which resulted in termination – the ex-employee is less likely to be awarded unemployment benefits. Also, monitor your unemployment benefit notices and charges, and timely file reports and pay taxes. By doing so, you avoid unnecessary penalties, which in turn lowers your costs.

TELECOMMUTING PITFALLS TO AVOID

Many employers have found telecommuting arrangements with employees to be very successful. If considering offering this benefit, make sure you do your homework and are aware of the potential pitfalls. A few of them are:

- **Confidentiality.** Teleworkers often access their employer's computer networks from home, and retain files or other company information in home offices. Consider a confidentiality agreement specifically designed for teleworking.
- **Employee or Independent Contractor.** Just because employees work off-site does not mean they are independent contractors. Before classifying a worker as a contractor, be sure to thoroughly evaluate factors such as the those used by the IRS or U.S. Department of Labor.
- **Workers' Compensation.** Liability for a worker's injury that arises out of the course and scope of employment is not determined by the location of the accident. A prudent employer should speak to its workers' compensation carrier about coverage issues prior to establishing telecommuting arrangements.
- **Fair Labor Standards Act (FLSA).** Allowing a non-exempt employee to telework may raise issues for the employer unless there is a way of tracking the employee's work time. If the employee is completely free to submit his/her own log of "hours worked," the employer may be obligated to pay. Consider implementing a policy stating that non-exempt employees should not work unscheduled hours or overtime hours without the permission of a supervisor. While employees (including teleworkers) must still be paid for hours that the employer "knew or should have known" were worked, the employees can be disciplined for violating the policy.
- **Privacy Issues.** From time to time, an employer may need to search, inspect, or monitor the employee's worksite or use of equipment. To remove any reasonable expectation of privacy in such situations, disclose in advance your intentions, and obtain written consent from the teleworker, possibly in a Telecommuting Agreement.

The Hidden Paycheck – Give Employees the Rest of the Story

The year-end W-2 shows only a part of the total "dollar-and-cent" value an employee gets from his or her job. Educating employees about their total pay, including "hidden" benefits and employer costs, is well worth the time and effort. Below is a sample format which may be easily tailored to fit your company.

Dear Employee:

Date _____

In preparing the year-end payroll, we have compiled information about your earnings you may find interesting. This is what the company paid *to* you and *for* you during the past year. The bottom line is the overall value of your 2007 wage and benefit package. Your supervisor can help answer any questions you may have. We appreciate all that you do to contribute to the success of the company and are pleased to provide these benefits to you.

Sincerely,

Pay (Salary, Wages, Bonuses, Etc.):

Pay for time worked	\$ _____
Bonus Pay	\$ _____
Vacation pay	\$ _____
Holiday pay	\$ _____
Miscellaneous paid time off	\$ _____
Total pay for time <i>not</i> worked	\$ _____
Total GROSS PAY for the year (W-2)	\$ _____

Required or Requested Payroll Deductions:

Federal income tax withholding	\$ _____
State income tax withholding	\$ _____
Social Security withholding - FICA (employee portion)	\$ _____
Employee portion of insurance premiums	\$ _____
Employee portion of pension or 401(k)	\$ _____
Union dues and fees	\$ _____
Other (list) _____	\$ _____
Other (list) _____	\$ _____
Total PAYROLL DEDUCTIONS for the year	\$ _____
Your NET TAKE-HOME PAY for the year	\$ _____

Company-paid Benefits and Taxes:

Health insurance premiums	\$ _____
Life insurance premiums	\$ _____
401(k) or profit sharing contribution	\$ _____
Pension contribution	\$ _____
Social Security - FICA (company portion)	\$ _____
Workers' Compensation Insurance	\$ _____
State Unemployment Insurance tax	\$ _____
Federal Unemployment Insurance tax	\$ _____
Cost of other company paid benefits _____	\$ _____
Total COMPANY-PAID BENEFITS AND TAXES	\$ _____

**Your Total Earnings, Including
Company-paid Benefits and Taxes**

\$ _____



SEMINAR ANNOUNCEMENT

Human resource professionals and other company leaders are often called upon to resolve workplace conflicts involving sensitive matters such as performance evaluations, discrimination allegations, and personality differences. Sometimes, the conflict is centered on the HR professional's or company leader's own actions. Other times, it is focused on a co-worker's actions and the HR professional or company leader is being asked to facilitate a resolution. Resolving the conflict in either situation can be a daunting task. However, if left undone, the conflict may spin out of control and have significant negative impacts on teamwork, morale, productivity, and retention of valuable employees.

In this informative seminar, noted experts will use real-life workplace conflict scenarios to teach attendees key conflict resolution and negotiation skills. Topics to be covered include:

- ▶ Methods to handle sources of workplace conflict
- ▶ Effective high-conflict communication techniques
- ▶ Role and skills of an effective facilitator
- ▶ Key problem-solving tips and practices



Guest Presenters:

Leonard Hawes is the co-founder of the Conflict Resolution Certificate Program at the University of Utah. As a communication and conflict resolution consultant and trainer, Leonard has worked with engineering, technology, health care, advertising, and non-profit organizations, as well as county, state, and federal governmental agencies.

James R. Holbrook is a Clinical Professor of Law at the University of Utah's S.J. Quinney College of Law where he teaches courses in interviewing, counseling, negotiation, mediation, and arbitration. He has mediated and arbitrated more than 600 disputes dealing with a wide range of legal issues.

Who should attend: Anyone responsible to address and resolve workplace conflicts including human resource professionals, company executives, managers, and supervisors.

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

Where: Salt Lake Airport Hilton
5151 W Wiley Post Way
Salt Lake City, Utah

When: Thursday, February 21, 2008
Seminar: 8:00 a.m. - 12:00 noon
Registration & breakfast buffet - 7:15 - 8:00

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

Please register the following for **Conflict Resolution and Negotiation Skills for a Better Workplace** 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 _____