



West Sound Human Resource Management Association

West Sound Happenings

June 2004

Mark Your Calendars

WSHRMA luncheons are held on the second Wednesday of each month. Please check our website for the location.
www.wshrma.org

Job Bank

There are currently no job opportunities in our Job Bank. If you would like to advertise an open position in the WSHRMA job bank, please contact Lisa Hecker at 360-779-4431 or e-mail to lisah@fredhillmaterials.com



WSHRMA June Luncheon

Ways to Wellness

June 9, 2004 — Red Lion Silverdale Hotel

Total wellness includes having creative health and benefit options for your employees. Our luncheon speaker will be Gina Marken, of Sound Benefit Administration. Gina's presentation will be an educational session on the benefits and drawbacks of Flexible Spending Accounts, Health Reimbursement Arrangements and Health Savings Accounts as part of the new Consumer Directed Health Plan craze sweeping America today. Each plan will be looked at individually, and then put side-by-side at the end of the presentation for comparison. Following Gina's presentation, special guest Judy Denney will direct us in a stress-busting activity that will allow attendees to focus on some internal wellness of their own.

Speaker Bio: Gina Marken

Gina was a full-charge accounting professional for such companies as Simpson Investment Company and Evans Group Advertising Company. While working full-time, Gina took night classes and completed massage school and worked as a licensed massage therapist in Washington State. She later worked with Hall & Company, in Poulsbo, as a life/disability agent, acquiring and servicing both large and small accounts. Being dissatisfied with handing valued clients double-digit medical rate increases, Gina looked carefully at the benefits of Flexible Spending Accounts as well as the "new" Health Reimbursement Arrangements coming into the marketplace. Seeing both products as a win-win benefit for both employer and employee, Gina launched Sound Benefit Administration in the spring of 2003 and was proud to add Hall & Company as her first client. Gina is active in Toastmasters. Her other interests include flying (she is Vice President of Jefferson County Pilots Association) and she is very active at her church in Kingston.

Ways to Wellness — R.S.V.P. by June 4, 2004

Date: June 9, 2004

Time: 11:45am—1:30pm

Place: Red Lion Silverdale Hotel

Price: \$15.00 Member

\$25.00 Non-Members

RSVP: [cricrip@oc.ctc.edu](mailto:crcrisp@oc.ctc.edu)

360-475-7306



3073 NW Bucklin Hill Road
Silverdale, WA 98383

360-337-8800



Become A Member

Are you interested in a SHRM Membership or transferring your membership to our chapter? Please give Marie La-Marche, VP of Membership a call with any questions. 360-792-3330 or e-mail at mlamarche@thesunlink.com

AFFILIATE OF



HR Professionals Get the Picture

Camera phone technology could expose employers to new risks

By Kathryn Terrell, PHR

Is there anything in your workplace you'd rather not see on the Internet? Your organization's new business plan, client lists, marketing strategy or financials? Embarrassing photographs of employees?

Your workplace may already be at risk to proprietary leaks or worse if you have no boundaries on the use of camera- and video-enabled cell phones. Some companies already have policies that protect work product, manufacturing processes, employees and clients from unauthorized picture taking and videotaping. But the ubiquitous cell phone, combined with wireless Internet connectivity and new imaging features, may be an overlooked exception to the camera rule. And that oversight could be damaging in a courtroom.

Already there is a growing body of complaints and legal claims involving surreptitious picture taking with camera phones. Public and private sector officials are rethinking policies and employee practices, and whether the routine convenience of the device outweighs its risk of exposure. And lawmakers in several states are considering laws to make certain abuses a crime.

Companies may, understandably, be reluctant to ban camera phones in the workplace. Early camera phone models are limited to viewing-only of low-resolution images shared among subscribers of the same provider network and seemingly aren't much to fret about. But newer camera phone models produce images of much higher quality, and new software allows users to store, edit and print images, or instantly transmit them over the Internet.

Uses of camera phones could mean new workplace rules to avoid potential problems such as unauthorized imaging of internal documents, theft-by-photograph of employee or client data, industrial espionage and more.

Jack Gold, an analyst with the technology research unit Meta Group, recommends caution in all cases. "All companies, not just those handling sensitive materials, should ban employees and visitors from bringing camera-enabled phones into the

premises," he says.

No spies lurking in the shadows of your workplace? Camera phones are also blamed for far less clandestine activities, through just as serious. A case handled by Cleveland attorney Stephanie Trudeau of the firm Ulmer & Berne involves an employee charged with using a camera phone to take a photo of a co-worker from behind without permission.

"Even in working environments where (security) issues are not a concern, employers should, at a minimum, announce a rule that employees should 'ask before you snap,' no matter where or what the subject," Trudeau says.

The potential for sneaky picture taking is especially worrisome in areas such as restrooms and dressing rooms where employees have a reasonable expectation of privacy. Such cases could result in a new wave of costly sexual harassment lawsuits, especially if embarrassing images are distributed or posted to an Internet site.



Even if a law is not broken, problems could ensue. "There might not be a legal basis for a claim," says Philip Gordon, partner at the law firm Littler Mendelson in Denver and fellow of the nonprofit Privacy Foundation at the University of Denver, "but certainly it could undermine morale and create dissension in the workplace" (*Rocky Mountain News*, 2004).

Whether inappropriate actions are done impulsively in a moment of misjudgment or purposefully and covertly, camera phones can provide willing employees the means to do harm.

Companies should examine their own vulnerabilities. If actions are called for, employers should address the issue with a policy that provides for the organization's security and manages risks while considering employees' needs to use cell phones for personal reasons and emergencies. The policy should clearly outline expected conduct. And it should communicate the company's commitment to protect personal privacy and maintain a pleasant and productive work environment.

(Continued on page 4)

June 2004 Legislative Update



The hottest employment issue currently is in the area of FLSA reform. It's important to familiarize yourself with the updated regulations. These new regulations are "a huge improvement from the current regulations, which have not been substantially updated since the 1950's," according to SHRM. "The

clarity of the final rule will enable HR professionals to classify their employees as either exempt or nonexempt for overtime purposes, while reducing the threat of litigation."

FLSA Overtime Regulations Finalized

On April 23, 2004, the Department of Labor (DOL) published, in the *Federal Register* at 69 Fed. Reg. 22122, the final regulations, to Section 541 of the Fair Labor Standards Act (FLSA) for administrative, professional and executive exemptions. The final rule, which modifies and amends the current regulations, is effective on August 23, 2004. The final rule is significantly different from both the current regulation and those proposed on March 31, 2003. The DOL did a thorough job reviewing stakeholder comments and revising the proposed regulations to address issues raised in the comments.

Generally, the final rule provides for the executive, administrative and professional exemptions to be applied as follows:

- To qualify for the executive employee exemption: an employee must be compensated on a salary basis at a rate not less than \$455 per week; an employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise; an employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and an employee must have the authority to hire or fire other employees, or if the employee's suggestions and recommendations are taken into account for the hiring, firing, advancement, promotion or any other change of status of other employees.
- To qualify for the administrative employee exemption: an employee must be compensated on a salary or fee basis at a rate not less than \$455 per week (\$23,660 per year); an employee's primary duty must be the performance of office or nonmanual work directly related to the management or general business operations of the employer or the employer's customers; and an employee's primary duty must include the exercise of discretion and independent judgment.
- To qualify for the learned professional employee exemption the following must apply: an employee must be compensated on a salary or fee basis at a

rate not less than \$455 per week and an employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment. Furthermore, advanced knowledge must be in a field of science or learning and must be customarily acquired by a prolonged course of specialized intellectual instruction.

The final rule also includes the highly compensated exemption from the proposed rule, with a few modifications. This exemption is for employees who earn \$100,000 or more annually (which must include at least \$455 per week paid on a salary or fee basis) and who customarily and regularly performs at least one of the duties of an exempt executive, administrative or professional employee identified in the standard exemption tests. This exemption will give additional guidance to HR professionals and a straightforward approach in determining an employee's exempt status.

The final rule also carries over from the proposed rule the ability for employers to discipline otherwise exempt employees, who have violated a major workplace rule, for a full day or more, without violating the salary basis test. These suspensions must be imposed pursuant to a written policy applicable to all employees. Major violations of a workplace rule include workplace conduct, sexual harassment, violence, drug/alcohol violations, and violations of state and federal law. This rule will allow HR professionals to treat exempt employees similarly with nonexempt employees and will allow for improved discipline for wrongdoing.

The final rule also carries over the safe harbor for isolated or inadvertent improper deductions from an otherwise exempt employee that was introduced in the proposed regulations. The employee will not lose an exemption if the employer has a clearly communicated policy (need not be written) that prohibits the improper pay deduction from exempt employees and includes a complaint procedure for affected employee; reimburses the employee and makes a good faith commitment to comply in the future. Additionally, the final rule make clear that the exemption is lost only for employees in the same job classification working for the same managers responsible for the improper deductions. SHRM supports the safe harbor and applauds the DOL limiting the loss of an exemption to employees who work within the same job classification and who work for the offending manager.

The DOL has developed materials to help make the FLSA transition easier. Please view the DOL website (<http://www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm>) for more information. SHRM will also be offering a number of educational programs on the final FLSA regulations in the next few weeks and months. You can access more information on SHRM's website (www.shrm.org)

Jenifer Lambert, SPHR
Washington State Council, Legislative Director

HR Professionals Get the Picture

(Continued from page 2)

Gordon suggests that some companies may want to consider restricting the phones in sensitive areas such as locker rooms and research facilities and otherwise have policies against abusive uses and trust employees to follow those policies (*Rocky Mountain News*, 2004).

For other employers, enforcement of a camera phone policy could be problematic, however, if a policy simply states "no unauthorized use." It is usually difficult to distinguish between someone using a cell phone and someone taking a picture. Even if a camera phone emits an audible beep when a picture is snapped, it may not always provide sufficient and obvious notice to the unsuspecting.

An outright ban of all cell phones, with or without imaging features, would make a camera phone policy easier to enforce, says Houston employment lawyer J. Bradley Spalding of the firm Littler Mendelson (*Houston Business Journal*, 2004). "The advantage of a complete ban on cell phones, when warranted, is that there is no question when the rule is being broken. Simply having a cell phone in your possession is against the rules, period." When crafting a policy, don't overlook

other handheld devices that may also have wireless networking features and are camera- and video-enabled. They include workplace staples such as personal digital assistants (PDAs) and new devices such as Pocket PCs, which are set to enter the market. Unless picture taking is business-justified, companies might avert potential problems by setting handheld equipment standards that specify devices without picture-taking functionality.

Technical solutions to help prevent camera misuse are coming -- jammers to disable the imaging function in a security zone and buzzers to signal when a photo has been taken. In the meantime, a clearly defined policy that is evenly applied is one key to avoiding problems.

As always, consult your legal counsel before finalizing your policy.

Be aware that new camera technologies will likely result in new workplace and legal issues as standards are established concerning how cases involving misuse are handled. If problems arise, seek legal advice early.

Kathryn Terrell, PHR, is a human resources professional who specializes in policies that relate to the mobile workforce and employee use of technology.

For questions or more information, she can be reached at kterrell@hrinprint.com or www.hrinprint.com.

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[SIDEBAR]

If a ban or restriction of camera-enabled devices is called for in your organization, here are some guidelines to help plan the new policy:

- Clearly define your expectations.
- If a ban is location-specific, identify affected areas or departments.
- Follow "best practices" concerning policy distribution and problem handling.
- If needed, provide the policy in the native language of non English-speaking personnel.
- Extend rules to visitors, contractors and leased labor.
- Enforce the policy evenly and consistently.
- Consult with legal counsel before finalizing your policy.
- Monitor new technology and update your policy as needed.

WSHRMA Upcoming Events Calendar

- July 14, 2004:** Best Practice/Town Meeting – Looking for members willing to share best practices HR has contributed to enable your organization to maintain quality and efficiency in a tight labor market and be an employer of choice. Send your best practice(s) to Gwen Adams at gwen.adams@navy.mil.
- August 11, 2004:** Breakfast meeting at Olympic College – Senior Track Focus
- September 2004:** No meeting due to Regional Conference
- October 13, 2004:** Making Diversity Work for You
- November 2004:** Fall half-day conference. Watch the web site and your mail for details. Possible topics include Identify Theft and the FLSA.
- December 8, 2004:** Annual Work/Life Awards Presentations and Holiday Celebration

Please check our website at www.wshrma.org for updated information on the above events.

NHRMA Annual Conference



MARK YOUR CALENDAR!

Plan to attend
NHRMA's 66th Annual Conference and Tradeshow

Monday, September, 13th –
Wednesday, September 15th, 2004

Resort Semiahmoo
Blaine, Washington

Conference Highlights

Special NHRMA Discounted Golf
Monday, September 13th

President's Caribbean Beach BBQ
Monday, September 13th, 7:00 pm - 10:00 pm

Fun Run and Walk
Tuesday, September 14th, 6:30 am - 7:30 am

Silent Auction and Reception
Tuesday, September 14th, 6:30 pm - 7:30 pm

For more information go to www.nhrmaconference.org

SHRM Webcasts

Webcasts are free to SHRM members and most offer HRCI recertification credit! Pre-registration is required: go to www.shrm.org/webcast



Weirdos in the Workplace ... The New Normal

Presenter: John Putzier, SPHR
June 1, 2004, 2 p.m. ET

John Putzier shares some of the powerful tools and techniques from his new book, *Weirdos in the Workplace: The New Normal*, for analyzing and solving virtually any workplace behavioral challenge. His presentation describes what he calls the "Five Whats" that must be answered to diagnose the need and appropriateness of addressing workplace weirdness, which will be demonstrated via actual cases studies that have been analyzed by the best and brightest minds in the world of work today. Putzier will also take questions during the last 15 minutes of the webcast.

So, unzip your foreheads, fasten your seatbelts, and get ready for a wild ride with John Putzier, SPHR.

Discussion Leader: John Putzier, SPHR, is known for his bottom-line, no holds barred approach to HR, as well as his humor and irreverence, particularly when poking fun at the world of HR. He has presented to numerous SHRM conferences, has been the keynote speaker at several regional SHRM conferences, and has spent his entire career in the field of human resource management. In addition to the upcoming *Weirdos* book, Putzier also authored *Get Weird!* (nominated for SHRM Book of the Year in 2002, a Top Ten Must Read on AchieveMax and a solid 5-Star rating on Amazon). He was also the Founder and Past President of the SHRM High-Tech-Net, and has served on the board of directors of the Pittsburgh HRA, as well.

Sponsored by: *HotJobs*

SHRM FLSA Rule Resource Page

On April 20, the U.S. Department of Labor announced revisions to the Fair Labor Standards Act (FLSA), the law that, among other things, identifies which employees are eligible for overtime pay. This is the most significant update to the FLSA in more than half a century. Because of the impact these new rules will have on employers and HR offices, SHRM is providing this special online resource, which will continue to be updated as this story unfolds. For more information <http://www.shrm.org/issues/flsa/>

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The Holidays and the FLSA

The common policy of not paying exempt employees for a holiday unless they work the day before it and the day after could violate the Fair Labor Standards Act. Exempt employees must be paid on a salary basis and failure to do so could subject your company to financial liabilities. If you would like more information on this topic, please send your SHRM member number to solutions@shrm.org and include the words "Exempt Pay" in the subject line.

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