



Message from the President

Cynthia Y. Thompson, SPHR
Serving the Professional



It's hard to believe that 2006 is winding to a close. I was recently reviewing the goals and purpose of SHRM-Memphis and was reminded of our first and perhaps most important goal – to improve the professional competence of our members. It is our mission to keep our membership updated on changing legislation in the human resources field. September is a very exciting and important month for our membership as we host our Annual Legal Seminar. Important topics on this year's agenda include changes to EE0-1 reporting and Immigration Reform.

There will also be a session on changes to USERRA regulations and re-employment rights. I encourage you to take advantage of this opportunity to update your knowledge in these areas. For the regular cost of our monthly membership meetings, you can attend a full day legal seminar facilitated by some of the city's top legal talent.

In addition to local opportunities to improve your professional competence, mark your calendars to attend the Tennessee State HR Conference that will be held in Gatlinburg September 20-22. This is an excellent opportunity to meet your peers and colleagues across the state, renew old friendships and make new ones. As the largest SHRM chapter in the state, we hope to have a large representation from the Memphis chapter. Details are posted on our website.

I also want to encourage you to take

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Know The Law?

High Court Changes Retaliation Standard

article submission by Keith Thomas, Ford & Harrison LLC

In a rare unanimous decision, the U.S. Supreme Court recently issued a decision that should cause employers to sit up and take notice. In *Burlington Northern and Santa Fe Ry. Co. v. White* (June 22, 2006), the Court held that a plaintiff in a Title VII retaliation case is not required to prove that the allegedly retaliatory conduct was related to his/her employment or workplace; rather, the plaintiff need only show that a reasonable employee would have found the challenged action materially

adverse, which means the action might have dissuaded a reasonable worker from making or supporting a charge of discrimination. Under this relatively broad standard, it will likely be easier for plaintiffs claiming retaliation under Title VII to avoid summary judgment take these claims to trial.

Prior to this decision, many of the federal appeals courts disagreed on the correct standard to apply in retaliation

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advantage of the many opportunities available to obtain prep training for professional certification as a human resource professional. The next exam period will be December 1 – January 31. Check www.shrm.org for registration details. You can attend University of Memphis on Saturdays or Southwest Tennessee Community College on weeknights if you are interested in classroom training. Christian Brothers University is also considering a prep course for this exam period. We will keep you updated on the status of this course offering. In addition, there are also several online products that are excellent if you prefer self-study to the classroom environment. Here is a list of some of the classes and products currently available:

Certgear Systems, Inc. offers online test preparation products for PHR and SPHR with 150% Test-Pass Guarantee. The cost is \$49.95. www.certgear.com.

The Human Resource Certification Preparation Course is available for PHR and SPHR study materials for \$285. www.hrcp.com or 801-343-3699.

I personally recommend the **Study Guide for PHR/SPHR by Anne M. Bogardus** available through Amazon.com for \$45 if you are interested in self-study.

**University of Memphis
SHRM Learning System - PHR/SPHR Certification Preparation Course**

Every Other Saturday beginning September 9, 2006 through December 2, 2006 from 8:30 - 4:30
Cost: \$995 including materials (\$955 for SHRM Members). Important: SHRM members receive a \$40 discount.

Registration: <http://conedreg.memphis.edu/>

**Southwest Community College Main Campus
Human Resources Management CEU Certificate - Preparation for PHR/SPHR**

Dates: Tuesdays & Thursdays, September 12 through October 5, 6 pm - 9 pm

Cost: \$250

To register or for more information:

Visit www.southwest.tn.edu and click on Continuing Education

You will have an opportunity to speak to representatives from Southwest Tennessee Community College about their course at the Legal Seminar as they are sponsoring our luncheon.

See you at the Legal Seminar on September 12!

2006 SHRM-Memphis Legal Seminar

September 12th, 2006

As Human Resources professionals, we face the challenge of ever-changing laws and government regulations. Join us as we bring you the most up-to-date legal information on the following: Adverse Employment Action, EE01 Reporting and Immigration Reform, New USERRA Regulations and Re-employment Rights, Unfair Labor Practices and how to avoid them & more.

Presenters:

John Hancock, Glankler Brown, PLLC

Tameka Hart, Ford & Harrison, LLC

Angie Davis, Baker, Donelson, Bearman & Caldwell

A.C. Wharton, County Mayor

Jim Stock, Weintraub, Stock & Grisham

Start Time:

8:15 A.M., Registration and Continental Breakfast

Stop Time:

3:00 P.M.

Location:

Racquet Club

Registration Deadline:

September 8, 12:00 P.M.

Register online today at www.shrm-memphis.org.



Board Member Spotlight Barbara Richman, Senior Professionals Chair

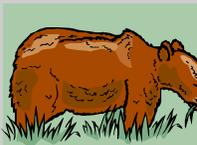
Please meet Barbara Richman, the 2006 SHRM Board Senior Professionals Chair. Before rejoining the current board, Barbara held a number of positions on prior SHRM-Memphis boards and served as President in 1991. Barbara noted that in creating the position of Senior Professionals Chair in 2006, the Board recognized that the chapter has members at varying points on a continuum, in terms of knowledge and experience. While it is the Board's challenge to bring value to members at all points on the continuum, the objective of the position is to focus on ways to facilitate the exchange of ideas and information with senior level professionals who are responsible for the strategic direction of their organizations. A committee is in place that is assessing needs prior to initiating activities to achieve this objective. At this point, the committee has shared best practices discussions with other SHRM chapters as well as with a number of the local senior level

members. The committee also sends notices to SPHR members when we find seminars or other information that may be of special interest.

Barbara is currently working as a human resource consultant with HR M pact, Inc. In that capacity, her focus is on providing value-added support to clients in areas including HR administration, training and development, policies and procedures, employment law compliance, HR audits, communications and employee/ labor relations. Prior to becoming a consultant, she enjoyed a 27 year career with MLGW, and spent the last 10 years at the utility as Manager of Labor Relations.

Her new career and her position on the board have provided Barbara with the opportunity to reacquaint with a number of HR associates and to meet other members. These associations, as well as the ability to gain firsthand insights into a number of organizations and their approaches, have enabled Barbara to continue to broaden her perspectives relative to HR.

14TH ANNUAL STATE CONFERENCE "BEAR ESSENTIALS OF HR" SEPTEMBER 20TH-22ND GATLINBURG, TN



As the largest HR conference in Tennessee, the 14th Annual Tennessee State Human Resources Conference offers knowledgeable speakers and a comprehensive schedule of educational sessions, exciting networking forums, and a first-class venue for exposure to the newest HR products, techniques and services.

Please visit www.tvhra.org/hr2006 for lodging and registration information.

New SHRM-Memphis Members



For those new to the SHRM Memphis chapter, we would like to extend a warm welcome. Please feel free to browse the SHRM National and SHRM-Memphis websites (www.shrm.org and www.shrm-memphis.org) to find helpful tools, articles and information about the latest in Human Resources. Our local chapter has several committees in which you can become involved. Join us at our next chapter meeting to learn more about how you can become more involved with your local chapter.

We hope to see you at our next event.

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cases. Some courts required a motion showing that the allegedly retaliatory conduct had an adverse effect on the employee's "terms, conditions or benefits" of employment or that the conduct was an "ultimate employment decision," such as hiring, firing, compensation, etc. Other more lenient courts allowed retaliation claims to proceed if the challenged action would have been material to a reasonable employee or if the complaining person showed adverse treatment based on a retaliatory motive, which was reasonably likely to deter the charging party or others from engaging in protected activity.

The Court adopted the latter position, holding while that Title VII's prohibition on discrimination is expressly limited to actions that affect the terms or conditions of the workplace, the antiretaliation provision is not so limited. According to the Court, Congress could achieve the objectives of the antidiscrimination provision by prohibiting only employment-related discrimination; however, it could not achieve the objectives of the antiretaliation provision by limiting its prohibitions to employment-related harm. The Court noted, "[a]n employer can effectively retaliate against an employee by taking actions not directly related to his employment or by causing him harm *outside* the workplace."

With respect to the extent of the harm that must be shown, the Court did hold that the injury or harm must be material, i.e. more than something trivial. The Court stated that an employee's decision to report discrimination does not "immunize that employee from those petty slights or minor annoyances that often take place at work and that all employees experience." In other words, in most cases, personality conflicts at work that generate antipathy and "snubbing" by supervisors and co-workers will not be actionable.

Whether it is material or trivial depends on all the facts and circumstances; an action that may be trivial in one setting may be material in another. The Court noted that a schedule change in an employee's work schedule may make little difference

to many workers, but may matter enormously to a young mother with school age children. Likewise, a supervisor's refusal to invite an employee to lunch is normally trivial, a nonactionable petty slight. But to retaliate by excluding an employee from a weekly training lunch that contributes significantly to the employee's professional advancement might well deter a reasonable employee from complaining about discrimination.

In this case, the employee claimed she was subjected to illegal retaliation when she was reassigned more arduous duties after complaining of sexual harassment and when, after complaining of this reassignment, she was later disciplined for insubordination and suspended without pay for 37 days. The Court rejected the employer's argument that the employee's suspension could not be retaliation because she was reinstated with backpay. The Court noted that even though she eventually received backpay, the employee and her family had to live for 37 days without income, not knowing whether or when she could return to work. "A reasonable employee facing the choice between retaining her job (and paycheck) and filing a discrimination complaint might well choose the former."

While the Court's new case-by-case standard will likely enable more retaliation claims to get to trial instead of dismissed at an earlier stage, ultimately the case demonstrates the importance of taking proactive steps to ensure that employees who complain of discrimination are not subjected to retaliation. An employer considering taking disciplinary action against an employee shortly after that employee has complained of discrimination should evaluate the proposed discipline carefully to ensure that it is consistent with the employer's policies, past practices and disciplinary actions directed toward employees in comparable situations.

SHRM-Memphis sends a "thank you" to Keith Thomas for his article submission.



October Meeting Notice....Please Join Us

for our joint chapter meeting with the Memphis Chapter of the
American Society for Training and Development.

Robert Koerber, Presenter

October 17th

11:30 a.m. —1:00 p.m.

The Racquet Club

Register online at www.shrm-memphis.org

Registration deadline October 12th



Got Spare Change?

**At your next chapter meeting, participate in
“SHRM- Change for the Better”**

SHRM Memphis has an ongoing program called “SHRM-Change for the Better.” We are collecting change at each monthly meeting for a donation to the national SHRM Foundation. The Foundation uses the donations to fund research, publications and education to advance the HR profession and enhance the effectiveness of HR professionals. Donating to this fund helps You get bet better. Please drop your extra change or bills in the basket on your luncheon table identified with the Foundation logo. Thank you for your support.

-Brenda Magill, Chapter Foundation Representative & Co-Treasurer



Career Center

Remember to visit our new Career Center at www.shrm-memphis.org, where you can search the latest job and internship openings and post your resume for other companies to view. If you are interested in posting a position opening for your company or organization, or if you would like to post your resume, please contact Lauren

Vannucci at vpprograms2@shrm-memphis.org.

Please note you must be a current SHRM-Memphis member to post your resume to the site.

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