



GREATER VALLEY FORGE HUMAN RESOURCE ASSOCIATION, INC.



2119 County Line Road, Villanova, PA 19085 ☎ Phone: (610) 551-4736 ☎ Fax: (610) 525-2187 ☎ www.GVFHRA.org

December 2010

December 14th Dinner Meeting: Silent Auction Sound Bites

When: Tuesday, December 14th
Where: Crowne Plaza, King of Prussia
Start time: 5:30pm

Holiday Dinner & Networking

Line Dancing Lessons provided by Party Pros

Silent Auction opened throughout the evening

4 Possible Ways You Can Support our Chapter's Holiday Dinner and Silent Auction:

- Plan on Attending
- Bring a friend or colleague along - everyone can use a dance partner!
- Donate an item or service
- Run an ad in our Auction Program Booklet

All proceeds will benefit the SHRM Foundation and The Montgomery County Foundation, local non-profit organizations that serves the needs of those in our immediate area. Last year we raised over \$2,600, and we are hoping to top that for this year's donations.

Interested in Donating An Item? -It's Not Too Late!

The Auction Committee is still in need of items to be used in the Silent Auction. We thank those of you that have already come forward with early donations.

Q. What makes a good item to donate?

A. Just think about something you might want to bid on yourself and there's your answer.

(Continued on Page 2)

Toys for Tots...Did you know?

Did you know that the Toys for Tots program was started in 1947 in Los Angeles by Marine reservist Major William L. Hendricks when his wife, Diane, could find no organization to donate a doll to a needy child? The Major gathered a group of local Marine reservists and collected some 5,000 toys for local children that year. His efforts were so successful that Toys for Tots was launched as a national campaign in 1948. Another interesting note, Walt Disney Studios designed the Toys for Tots red toy train logo. As of 2009, the Toys for Tots Program and Foundation have collected and distributed almost five hundred million toys. (Wikipedia)

Please **don't forget your new, unwrapped toy** on December 14th for the Toys for Tots program so we can help boost that five hundred million number to six hundred million!

Thanks for your generosity!

Still stumped?

Here are some ideas to get your started:

- A round of golf
- A gift certificate from a local merchant
- Tickets from a local theater
- Theme basket (Chocolates, Holiday, Movie)
- Personal services: manicure, massage, hair styling
- Wine
- Your special gift or talent (cooking, yoga, art, photography)

Items we have so far: Lunch with a Leader (Ed Wallace); restaurant gift cards; fitness membership, theme baskets.

Kindly submit your Silent Auction donation on or before Thursday, December 9th.

We will be happy to pick up any items that are donated. For any questions or to make arrangements for your Silent Auction donation, please contact Maria Brice at (610) 256-6389. With your help, our efforts will be a success!

Auction Ad Booklet!

Our Silent Auction Booklet contains auction items and also advertisements that are available for business and individuals to purchase. Below is the form to run your ad. Please consider purchasing one to help promote your business too!

Advertisement Options: Please specify your choice below and return with check made out to GVFHRA Auction Booklet or call with a credit card to:

GVFHRA
2119 County Line Road
Villanova, PA 19085-1733
610-551-4736 phone

_____ Single Back Cover Page \$200

_____ Full Page \$100

_____ Half Page \$50

_____ Business Card Ad \$25

Artwork can be forwarded to Bruce Zanar (610.792.2105) at Motiv8Mktg@aol.com for optimum results, high resolution jpeg (300 dpi or better). Pdf files are preferred.

Meeting Locations:

Dinners: Crowne Plaza Hotel and Conference Center, King of Prussia

Breakfasts: Crowne Plaza Hotel and Conference Center, King of Prussia

Meeting Costs:

GVFHRA Members who have registered in advance:

\$25 online

\$30 reserve more than 3 days in advance and pay at the door

\$35 any reservations made in the last 3 days

GVFHRA members who are NOT pre-registered and all guests:
 \$35.00

Students:

\$20.00 (enrolled in a minimum 2 courses of 6 credit hours & not in a full time exempt HR job)

To Register:

Mail payment to GVFHRA, phone (610) 551-4736 or visit www.gvfhra.org.

GVFHRA will bill "no-shows" who do not cancel reservations.

ATTENTION NEW MEMBERS!!

GVFHRA encourages you to attend a New Member Orientation session held at 5:15 pm prior to each dinner meeting. Come learn all about us and meet new people!

Ask at the registration desk or find an Ambassador Member for assistance. We look forward to seeing you!

President's Message



Happy Holidays!

The end of the year is such a busy time for all HR professionals. GVFHRA would like to provide a brief respite from all the chaos.

Why not take a break and attend our networking event on Tuesday, December 14th. We are foregoing our normal meeting format so we can all enjoy some good food, good friends and good cheer. There might even be a surprise or two!

While you are meeting new acquaintances and catching up with dear friends, have some fun by bidding on the wonderful prizes in our Silent Auction. Proceeds of the Silent Auction support the SHRM Foundation, a leading funding resource of HR research grants. The Foundation produces publications and educational resources to advance the HR profession. Their work is made possible by your generous tax-deductible donations. For more information check out their website at <http://www.shrm.org/about/foundation>.

In addition to the Silent Auction, we will also be collecting new, unwrapped toys for the Toys for Tots program. It is especially important to remember those who are less fortunate around the holidays.

At this time of year, we also remember all those who have made a special impact on our lives both personally and professionally. I would like to take a moment to thank everyone serving on the GVFHRA Board and Committees for taking time out of their busy schedules to provide the chapter with the benefit of their expertise.

On behalf of the entire GVFHRA Board of Directors and our fabulous slate of Committee volunteers, I would like to send a very special thank you to our chapter members and service providers for all of your support in 2010. May all your wishes this Holiday Season come true!

Warm wishes for a very happy, healthy and prosperous 2011.

Anita V. Dombrowski, SPHR
President, Greater Valley Forge HR Association

ATTENTION CURRENT MEMBERS!!

The Ambassador Committee is currently looking for energetic members who are interested in becoming an "Event Ambassador" for 2010-2011. Please contact either Mike Pagliaro at mmapags@applespice.com or Deirdre Simons at swimddd@aol.com if you are interested in more details. Thank you!

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THANKS TO OUR DECEMBER MEETING SPONSOR

In today's economic conditions, making every one of your recruiting dollars count is paramount to your company's success. The Philadelphia Inquirer, Daily News and philly.com/Monster offers you the best recruitment solution possible to fulfill your hiring needs. We offer employers the Philadelphia region's leading recruitment vehicles: The Philadelphia Inquirer, Daily News and philly.com/Monster. The Inquirer and Daily News have the largest reach into the market than any other media – print, radio or TV. Philly.com is the region's top local website with over 2.8 million local users per month. Together, with an ad in The Inquirer, Daily News and 30 days on philly.com/Monster you'll reach 2.2 million adults, including 81% of job seekers, in the Philadelphia market.

The Inquirer and Daily News JOBS Sections, along with philly.com, are designed to offer advertisers maximum visibility for their recruitment message. The wider column format, attractive font and layout give the print section a clean, organized look by making it easier for job seekers to search. The weekly feature stories guide job seekers in their pursuit of the perfect career and make for a quick and informative read. Our JOBS Sections attract readers and place your ad in the most attractive and supportive environment possible. And, with our low-cost, multi-media advertising packages, your ad is more effective than ever.

For advertising information, please call 215-854-5448 or email recruitment@phillynews.com.

The Art of Career Suicide

On Monday, December 6 we will hold our monthly meeting of the GVFHRA Career Transitions Group from 5:30 PM to 7:00 PM at the Lee Hecht Harrison offices at 1055 Westlakes Drive, Berwyn, PA 19312. To make the event just a bit more festive in anticipation of the holidays, some light refreshments will be served.

Come learn and laugh from the colossal mistakes of others and the many other things that can limit your success as a leader and severely damage the effectiveness of your career search. The gaffes are legendary and we laugh (or wince) at them every day. Those notable mistakes made by a professional in the fury of a career death spiral are all too painful to watch. Or are they really? We share these stories at the dinner table, with our co-workers, across the fence with the neighbor and with the coach at our kid's soccer match. We talk about this kind of stuff because it's great for a laugh. This is mostly because those who commit career suicide do so without an apparent shred of consciousness. From bad Facebook habits to the wrong thing said in a meeting you'll never realize who is really watching!



Chris Barton, President of outplacement and career coaching firm Barton Career Advisors, LLC, is a former Fortune 100 financial services Senior Vice President and has more than 15 years of experience working with professionals of all levels at some of the nation's top companies including credit card giant MBNA America and Citizen's Financial Group. Most recently Chris transitioned from his role as Chief Administrative Officer of a multi-region proprietary education company, to start Barton Career Advisors (www.bartoncareeradvisors.com). Chris is a highly sought career transition expert, HR consultant and speaker. His hallmark focus on people development and helping other people get what they want has defined his own career success. Chris received his MBA and BS from the Lerner College of Business at the University of Delaware and holds the prestigious Senior Human Resources Professional (SPHR) designation from the Society of Human Resource Management (SHRM).

The CBI Group, a leader in HR Recruitment and Consulting is pleased to introduce Chris Barton, President of Barton Career Advisors, LLC.

Great Advertising – Great Value

Newsletter Ads for as little as \$50/month!

Bus. Card size	(3-1/2" w x 2" h)	\$ 50
¼ page	(3-1/2" w x 5" h)	\$ 75
½ page	(3-1/2" w x 10" h) or (7-1/2" w x 5" h)	\$ 150
Full page	(7-1/2" w x 10" h)	\$ 300

Discounts available for multiple monthly insertions.

Website Banner Ads as low as \$250/month!

½ price for GVFHRA meeting/seminar sponsors.

Details at gvfhra.org and click on sponsor/ad ops.

Contact Lori Stokes-Powers (610) 551-4736

New Diversity Board Member

At the November meeting, the GVFHRA Board approved the appointment of Pamela Tudor as a member of the Board of Directors responsible for diversity efforts for GVFHRA. Pamela is an experienced consultant who helps organizations develop strategies for diversity and inclusion for all employees, and assists in the crucial implementation of the strategy as part of an organization's business plan. She helps individuals and teams develop or clarify their mission, vision, and goals, as well as enhance their skills at building accountability. She believes that good leadership requires self-awareness and good self-management, characteristics that can be developed. Pamela has worked in the financial services, pharmaceuticals, technology, healthcare, manufacturing and energy industries, as well as with universities and government.

We are so very pleased that Pamela has joined the GVFHRA Board. We are looking forward to some great initiatives and programs supporting GVFHRA goals in the areas of diversity and inclusion.

Inga Akincilar will join Pamela as part of the Diversity Committee. If you are interested in participating in the Diversity Committee, please contact Pamela directly at pnt@tudorconsulting.com or contact Lori Stokes Powers at gvfhra.org.

GVFHRA Job Bank

Find Jobs:

Free to Job Seekers

Post Jobs:

Discounted rates for GVFHRA Employers

Check the website www.gvfhra.org under

Careers for more details

Social Media Policies

Can an Employee Disparage a Company Supervisor on Facebook and Claim Protection under the National Labor Relations Act?

**By Maria L. Petrillo, Esquire
Co-Chair of the Legislative and Governmental
Affairs Committee
Greater Valley Forge Human Resources
Association**

The article set forth below comments on an important and developing area for companies and their human resource professionals—to what extent may employer social media policies prohibiting posting disparaging or discriminatory comments impinge upon employee rights under the National Labor Relations Act? In a case that created a firestorm of media attention, the National Labor Relations Board (“NLRB” or “Board”) issued a complaint in late October, 2010 against an employer which allegedly discharged an employee who posted comments critical of her supervisor on Facebook. The employer deemed the comments to violate its social media and blogging policy, as the comments contained “offensive statements” about another employee. In issuing the complaint charging the employer with unfair labor practices, the NLRB focused on the fact that the social media policy barred any “disparaging” comments about the company, its employees and/or customers. Arguably, this policy was “overbroad” and improperly “chilled” employee communications. More central to the issuance of complaint, however, the employee posted comments critical of her manager and “chatted” with fellow employees about terms and conditions of employment, on her own time and from her personal home computer. Arguably, the content of the postings, the fact that others joined the

conversation, and the platform rendered the discussions “concerted protected activities” which, the Board maintains, deserve protection under the National Labor Relations Act.

As you review the article below, consider: (1) does your company have a social media policy that bars employees from making “disparaging” or “discriminatory” or “defamatory” comments about your company and its executive leadership/employees?; (2) has your company disciplined or discharged an employee for violating such a policy?; (3) does your policy attempt to monitor/control comments about working conditions, pay and benefits, or other issues that go to the heart of the employment relationship? As the article below explains, both union and non-union employers must take heed and consider whether existing social media policies should be re-examined, to assure compliance with the National Labor Relations Act. With over 500 million subscribers to Facebook, this social media vehicle and others will pose significant opportunities and challenges for employers.

Social Media Disclaimers in Social Media Policies Could Avoid Labor Law Problems, Attorneys Say; by Amy E. Bivins, Legal Editor, BNA Electronic Commerce & Law Report

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A recent complaint filed by a regional National Labor Relations Board office, which alleges that an employee was unlawfully terminated under an overbroad social networking policy, should encourage companies to take a second look at their policies governing employees’ internet communications—both in unionized and non-union organizations—attorneys told BNA.

As Facebook and other social networks have become more popular, companies have been advised to implement policies that set standards for what employees can say about the organization on the internet. This complaint warns that those policies

must be carefully crafted to avoid violations of the National Labor Relations Act, 29 U.S.C. § § 151–169.

The NLRB’s action serves as a reminder that all employers, both union and non-union, have to consider the labor-related consequences of restrictions on employees’ online activities. The complaint, however, is not cause for panic, the lawyers said. For now, businesses should watch to see how the case turns out, and adjust their policies accordingly (American Medical Response of Connecticut and International Brotherhood of Teamsters, Local 443, NLRB, No. 34-CA-12576, complaint filed 10/27/10).

In the meantime, a simple policy update—adding a statement that the employer will not interpret or apply the policy in any manner that would violate the NLRA— can help to mitigate legal risks, these attorneys said. When considering whether to enforce an existing policy in situations that involve potentially covered communications, proceed with caution, they added.

Hearing Scheduled for Jan. 25, 2011. John S. Cotter, the acting regional director of the NLRB’s Hartford, Conn., office, issued the complaint Oct. 27. Cotter scheduled a hearing on the complaint before an NLRB administrative law judge for Jan. 25, 2011. In a statement, Douglas Moore, a spokesman for AMR, said the company “strongly disagreed” with the NLRB allegations. “Although the NLRB’s press release made it sound as if the employee was discharged solely due to negative comments posted on Facebook, the termination decision was actually based on multiple, serious issues,” Moore said. AMR’s response [to the complaint] was due Nov. 10.

Employee Fired After Criticizing Boss on Facebook. According to the complaint, the employee, Dawnmarie Souza, was fired from American Medical Response of Connecticut Inc., after she criticized her supervisor on Facebook.

The incident began when the employee requested Union representation for an investigatory interview. The company denied her request for representation, and required her to fill out an incident report. Other supervisory employees allegedly threatened the employee with discipline because of her request for representation. The same day, the employee criticized

her supervisor on her Facebook page, allegedly with other employees.

The employee was terminated, according to the complaint, for her violations of the company’s internet policies. The policy said, among other things:

Blogging and Internet Posting Policy: Employees are prohibited from making disparaging, discriminatory, or defamatory comments when discussing the Company or the employee’s superiors, co-workers and/or competitors.

Complaint Arose From Termination and Policy.

According to the [NLRB] complaint, the company, through its internet usage policies and termination of the employee, “has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act. Section 7 of the NLRA, 29 U.S.C. § 157, states that:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection[.]

According to the [NLRB] complaint, the employee was engaged in protected “concerted activity” when she communicated criticisms of her supervisor to other employees via Facebook.

The NLRB alleged in the complaint that the company also discriminated in regard to the hire or tenure or terms and conditions of employment, thereby discouraging membership in a labor organization.

Is This a Potential Policy Shift? The social media policy at issue in this case appears similar to one that recently escaped NLRB censure in re: *Sears Holdings*, No. 18-CA-19081 memorandum issued Dec. 4, 2009

That policy prohibited, in social media, “[d]isparagement of company’s or competitors’ products, services, executive leadership, employees, strategy, and business prospects.” The union charged that the policy chilled Section 7 protected activity.

The advice memorandum, citing *Lutheran Heritage Village—Livonia*, 326 NLRB 646 (2004), said that the maintenance of a rule violates the NLRA if it (1) explicitly restricts Section 7 protected activities; or (2) if employees would reasonably construe the language to prohibit Section 7 activity, the rule was promulgated in response to union activity, or the rule has been applied to restrict the exercise of Section 7 rights.

The *Sears* memorandum concluded that the policy could not reasonably be interpreted to prohibit Section 7 protected activity. In a Nov. 9 posting on its own Facebook page, the NLRB addressed the scope of corporate social media policies, and said that a four-part test applies:

What's the line? When do Facebook comments lose protected concerted activity status under the National Labor Relations Act? A four point test applies: (1) the place of the discussion; (2) the subject matter of the discussion; (3) the nature of the employee's outburst; and (4) whether the outburst was, in any way, provoked by an employer's unfair labor practice.

Maria L. Petrillo, a member at Eckert Seamans in Philadelphia, told BNA that the [B]oard seems to be shifting its position about how far an employer can go in disciplining insubordinate, abusive, or libelous communications.

“Signaling a clear departure from previous precedent in a very recent case, *Plaza Auto Center Inc.*, the Board declared that a company violated the rights of an employee to engage in ‘concerted protected activity’ despite the fact that the employee engaged in virulent name-calling of the company owner,” Petrillo remarked. [*Plaza Auto Center, Inc.*] No. 28-CA-2256; 355 NLRB No. 85 (Yuma, AZ, August 16, 2010). “The employee called the owner ‘a f***ing a**hole’ and ‘a crook’ and was discharged. The Board determined that language was protected precisely because the employee was engaging in ‘concerted protected activity[.]’” Petrillo explained.

The action could serve as a message that companies need to keep the NLRA in mind when crafting social media policies. “This case is interesting because the policy is similar to one the NLRB has approved,” Andrea M. Johnson, a partner with Burleson Cooke

LLP, in Houston, remarked. “What are they trying to tell us?” Johnson added.

In *Endicott Interconnect Technologies Inc. v. NLRB*, 453 F.3d 532 (D.C. Cir. 2006), the court concluded that an employee's termination for comments he posted to a public website did not violate the NLRA. The message was in response to an anti-union message, and encouraged organization. The message contained statements like “Do you want to sit by and watch this area go to hell and dissolve into a welfare town?” and “This business is being tanked by a group of people that have no good ability to manage it.” The court concluded that the disloyal, disparaging, and injurious nature of the comments deprived him of protection under the NLRA.

“There's always that out: loyalty,” Johnson said. “So there's a balance. If a comment is detrimental and disloyal, it won't be protected,” she added.

Red Flags When Messages Involve Representation.

The explicitly union-related circumstances of this case seemed to attract the NLRB's attention. The employee requested representation. That request was denied, she complained, and then she was terminated.

“Given the nature of the complaint, it's very safe to say that the [B]oard thinks that this activity was protected,” Michael S. Cohen, a partner with Duane Morris LLP in Philadelphia, observed.

“The concept that a discharge for violating an overbroad rule is unlawful is hardly precedent setting, but more important, it appears that the person was actually engaged in concerted activity in chatting on Facebook with other employees,” Edward R. Noonan, a member at Eckert Seamans LLP in Philadelphia added. “As to the rule, ‘no disparaging of the company,’ such a rule would have been, and has been found to be overbroad and unlawful as having a chilling effect on concerted activity outside of the ‘Facebook’ context,” Noonan said.

Non-Union Companies Should Watch, Too. The complaint is only the first step of the process, but could have an impact on all employers down the road, Johnson added. “We're going to have to wait and see,” Cohen remarked. “If ultimately it is determined that the company didn't do anything wrong, it

obviously will be good for employers; but if the actions are found to be unlawful, even organizations that are non-unionized need to be concerned,” Cohen added.

The board will litigate cases involving non-union employers from time to time, Cohen observed. The biggest takeaway, Johnson said, is that the NLRA applies to employees that work both in unionized and non-unionized companies. The NLRA protects nonunion and union employees against discrimination based on union-related activity or group action.

The NLRA does not cover all workers. It specifically excludes individuals who are employed:

- as agricultural laborers;
- in domestic service of any person or family in a home;
- by a parent or spouse;
- as an independent contractor;
- as a supervisor;
- by an employer subject to the Railway Labor Act;
- by federal, state, or local government; or
- by any other person who is not an “employer” as defined in the NLRA.

The statute defines “employer” as “any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof, or any person subject to the Railway Labor Act [45 U.S.C. § 151 et seq.], as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.”

Examine Policies in the Interim. As the case progresses, companies should take a look at their social media policies, the attorneys recommended. “If may be necessary to modify the policies, to include a caveat that the employer will not interpret or apply the policies in any manner that would interfere with employee rights under the National Labor Relations Act,” Petrillo said.

Employers should look at other policies with a critical eye, as well, Petrillo recommended. “Examine other rules regarding ‘no discussion of wages,’ ‘no disparagement,’ ‘no negative impact on company,’ ‘no release of information about other employees,’ and then consider revisions to comply with the NLRA,” she said. Those topics involve “protected activity,” so rules restricting discussion of those topics must be applied carefully, Petrillo added. Johnson offered similar advice. “If you have social media policies, include safe harbor language,” Johnson said.

The answer to the dilemma is not to do away with social media policies, Cohen said. “This is not something that is coming, this is here,” Cohen observed. “Companies have to have policies, but there may be more risk in aggressive enforcement,” Cohen said. “Consider carefully the basis for discipline/discharge for conduct including posting/advocating critical or negative comments about the employer on social media sites,” Petrillo said. “Certain bright lines remain—revealing confidential information and/or trade secrets would be proper grounds for discipline,” she said, adding that discriminatory language also cannot be countenanced. “But, if the ‘chat’ involves terms and conditions of employment and the venue is the ‘virtual water cooler’ of Facebook, employers must tread carefully and cautiously in light of the issuance of this complaint against AMR.”

Attorney Compares Recent, Similar Canadian Litigation. This case is similar to a recent action brought by a union in British Columbia, Kate Macartney, an associate with Blake, Cassels & Graydon LLP in Toronto, observed, pointing to Loughheed Imports Ltd. Operating West Coast Mazda d/b/a West Coast Detail & Accessory Ctr. and UFCW Local 1518, No. B190/2010 (B.C.L.R.B. Oct. 22, 2010)(15 ECLR 1690, 11/10/10).

In the *West Coast Mazda* case, the British Columbia Labour Relations Board upheld an employer’s right to fire employees based on their postings about the company and supervisors on Facebook. The board concluded that the comments were “very offensive, insulting and disrespectful.”

Canadian jurisdictions generally have laws that protect the right to organize and prohibit discrimination against union activity, Macartney added. At this stage of the NLRB action, the complaint appears to take a more protective approach to the employee's online speech than that granted under Canadian law.

Both this and the *West Coast Mazda* cases reportedly involved speech that went beyond union-specific comments to reach discriminatory or offensive

statements, Macartney noted. Canadian law does not give employees carte blanche to criticize their employers and engage in discriminatory and abusive activity, she remarked. "While, yes, there is protection, it doesn't necessarily give employees free reign," Macartney said.

If you have questions about this information, kindly contact Maria L. Petrillo, Esquire at mpetrillo@eckertseamans.com

*Do you have a career or educational milestone to share?
Please contact our Newsletter Coordinator and let us know at:
WMcMenamin@hcl-axon.com*

December 2010

<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>
29	30	1	2	3
6	7	8	9	10
13	14 Dinner Meeting: Silent Auction Sound Bites 5:30 p.m. at the Crowne Plaza, King of Prussia	15	16	18
20	21	22	23	24
27	28	29	30	31