



The Official Newsletter of

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March Monthly Meeting Sponsor



Join us
March 20, 2013
at **7:30a.m.**
for our Breakfast
Meeting!

Location:
Glazer Children's Museum
110 W. Gasparilla Plaza
Tampa, FL 33602

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Avoiding the Boomer Drain

HR Strategies and Best Practices

Can your organization afford to lose your reservoir of talented, experienced older workers in the coming years? If not, have you done serious strategic workforce planning to analyze the impact of baby boomer retirements and to identify potential skills gaps that could result?

This session will look at key older worker strategies that should be integrated into an overall talent management program for today's multi-generational workforce. It will also look at lessons to be learned from recent research -- including the 2012 SHRM-AARP Strategic Workforce Planning Poll --and from best practices by organizations honored with AARP's 2011 Best Employers for Workers over 50 Award.



March Speaker: Dorothy Knapp
best practices by organizations honored with AARP's 2011 Best Employers for Workers over 50 Award.

Dorothy Knapp, SPHR is Field Services Director in the Southeast Region for SHRM and is based in Vero Beach, Florida. She has accountability for the states of Alabama, Florida, Georgia, and Mississippi and the islands of Bermuda, Bahamas, Puerto Rico, and St. Croix. Dorothy also serves as the staff liaison to the Organizational Development panel for SHRM. She heads the Workforce Readiness Core Leadership Area. She is also a member of the SHRM Speakers Bureau.

Prior to this assignment, Dorothy served as the Director of the Southeast region for SHRM. She was responsible for a twelve state region and two staff members. Before this, Dorothy served as the Director of Professional Emphasis Groups for SHRM, managing five mini-associations, specializing in employment, the media, HR consultants, the high-tech industry, and HRIS applications.

Before joining SHRM in 1999, Dorothy was a regional HR manager in the retail and restaurant industries. She worked for Stein Mart and prior to that for the Black-eyed Pea restaurants. Her HR functions included employee relations, training and development, and staffing and retention of Managers.

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NLRB Recess Appointment Clause

While 2012 will not go down as a lost year for the National Labor Relations Board, the validity of each decision is now in question.

In late January 2013, a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit struck down the "recess appointments" to the National Labor Relations Board of Members Sharon Block and Richard Griffin, both Democrats, and former Member Terence Flynn, a Republican who resigned in 2012. The three so-called "recess appointees" were named by President Barack Obama on January 4, 2012, when the Senate was holding short "*pro forma*" sessions at least once every three days between December 20, 2011, and January 23, 2012, to avoid being in recess. The Obama Administration contended the Senate was effectively in recess beginning December 20, 2011, that the *pro forma* sessions meant nothing, and that it had the power to make recess appointments during this period. The Administration held to this position despite the fact that the Senate took some substantive actions during the *pro forma* sessions, which included votes approving a temporary extension of a payroll tax provision on December 23, 2011, and commencing a second session of the 112th Congress on January 3, 2012.



David Steffen, Esq.
Director of Legislation

The D.C. Circuit panel held in *Noel Canning v. NLRB* that the Senate was indeed in session on January 4, 2012, and therefore that the President did not have constitutional authority to make the appointments. The decision, if ultimately binding on the Board after an expected appeal, will leave the Board with only one "valid" member – Chairman Mark Gaston Pearce, a Democrat – and also means that all of the Board's decisions dating back to January 4, 2012, may be void for lack of a quorum.

The Court's Rationale

The Constitution's "Recess Appointments Clause" gives the President the power "to fill up all Vacancies that may happen during the Recess." The employer in *Noel Canning* argued that the President has recess appointment power (1) only when the Senate is in recess and (2) only for vacancies that "happen" during the recess. The court found in the company's favor on both points.

First, on the threshold issue of whether the Senate was in recess on January 4, 2012, the court made a detailed analysis of the meaning of "recess" as set forth in the Constitution and the way that term had been used in actual practice since the days of the Founding Fathers. The court concluded that "recess" as used in the Constitution, meant a recess that occurred between Senate

sessions, or an "intersession" recess. The court then concluded as a fact that the Senate had officially convened a second session of the 112th Congress on January 3, 2012. Thus, the court said, there was no "recess" on January 4, the date of the appointments.

In a particular blow to the Administration and Board, the court said that the President could not be the one in the nation's system of laws to decide whether a "recess" exists. According to the court,

An interpretation ... that permits the President to decide when the Senate is in recess would demolish the checks and balances inherent in the advice-and-consent requirement, giving the President free rein to appoint his desired nominees any time he pleases, whether that time be a weekend, a lunch, or even when the Senate is in session and he is merely displeased with its inaction. This cannot be the law.

Next, the court addressed the employer's second argument – that a recess appointment could be made only for a vacancy that "happened" during "the recess." The court agreed, concluding that, not only was there no recess on January 4, but also that the vacancies that were filled on that date had not "happened during" *any* recess that included January 4, 2012. Accordingly, the court granted Noel Canning's petition for review and vacated the Board's order in the case.

"Respectful disagreement"

In reaction to the D.C. Circuit's decision, Chairman Pearce – now potentially a one-man Board – issued a statement on the day of the decision, saying in part,

The Board respectfully disagrees with today's decision and believes that the President's position in the matter will ultimately be upheld. It should be noted that this order applies to only one specific case, *Noel Canning*, and that similar questions have been raised in more than a dozen cases pending in other courts of appeals.

In the meantime, the Board has important work to do. The parties who come to us seek and expect careful consideration and resolution of their cases, and for that reason, we will continue to perform our statutory duties and issue decisions.

Analysis

If the D.C. Circuit decision stands and is ultimately applied broadly to all decisions issued by the Board after January 4, 2012, those decisions will presumably be void for lack of the three-member quorum required under *New Process Steel v. NLRB*, a 2010 Supreme Court decision. Many of these Board decisions had a huge negative impact on

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NLRB Recess Appointment Clause

Continued from page 2

employers, and some overruled decades of precedent. As stated above, Chairman Pearce would be the only remaining member if the decision ultimately results in loss of the needed quorum. (The only other validly appointed member, Republican Brian Hayes, left the Board in December 2012, after his term expired.)

Notwithstanding Chairman Pearce's expressed intent to continue business as usual – pending an expected petition for rehearing by the full D.C. Circuit *en banc* or an appeal to the U.S. Supreme Court – it is not clear how the Board will operate, with only the Chairman having certain authority and all of its decisions for the past year (and possibly even into the future) potentially void.

The effect of the *Noel Canning* decision could be momentous. Employers with active cases before the Board in any part of the United States may seek to get their cases before the D.C. Circuit, with the law of that circuit available to avoid enforcement of Board orders. It is also possible that employers will proactively seek to enjoin further Board action on the ground that it does not have a quorum. The decision may also affect pending compliance proceedings resulting from Board orders (which also arguably required a quorum to be valid) that have been issued since January 4, 2012, and that were not appealed.

If the Supreme Court gets the case and upholds the decision on either of the two constitutional grounds relied on by the D.C. Circuit, then all Board cases decided since January 4, 2012, would presumably be void for lack of a quorum and would have to be "re-decided" by a properly-constituted Board with a quorum, as happened after the Supreme Court's *New Process Steel* decision.

On the other hand, it does not appear that the *Noel Canning* decision will affect actions by Lafe Solomon, Acting General Counsel for the Board, or investigations by Region offices of the Board, except when Board enforcement is needed, such as in the case of enforcement of a Board subpoena.

If the "intersession" portion of the D.C. Circuit's ruling is upheld, it may affect Board decisions and regulations dating all the way back to 2010. Former Member Craig Becker, a Democrat, was "recess appointed" on March 27, 2010, but the vacancy that he filled did not "happen" (occur) between congressional sessions. Precisely which Board decisions are defective for lack of a quorum may be subject to ongoing dispute.

GROW FINANCIAL FINDS COMMON GROUND THROUGH DIVERSITY

BY DAVID RICHARDS

"Diversity" as defined in the dictionary means "the condition of being different" or as "an instance or point of difference." At Grow Financial Federal Credit Union, diversity has taken on a new meaning.



Commonality.

"What we've found by embracing diversity," said Kimberly Woolard, Sr. VP/Human Resources and Professional Development Group for Grow Financial, "is how much we all have in common, the shared experiences of our lives."

In an age where we see retirees and teenagers bagging groceries at the local supermarket, where one out of seven marriages are interracial or interethnic, where women and minorities have advanced to leadership positions in the halls of corporate America and in government, and where gays can now serve openly in the military, diversity has gone far beyond its original definition.

Diversity touches every corner of our cultural landscape and is now the state of our Union. And Grow Financial has embraced diversity as a means for finding common ground with its more than 156,000 members. A walk through any of the 20 Grow Financial branches is to see a snapshot of the diverse population of the Tampa Bay community. You may also hear conversations in Spanish, or Tagalog.

This diversity isn't just represented by the people standing in the teller lines. The employees behind the counter also reflect our diverse mix of ethnicities and lifestyles, as well as the commitment Grow Financial has made toward fostering diversity in its corporate culture.

Diversity awareness at Grow Financial begins with employee orientation and continues throughout the year at company events which celebrate diversity, such as Black History Month, Hispanic Heritage Month and Women's History Month, and the annual Diversifest luncheon, where employees share traditional ethnic dishes. Employees also participate in the annual St. Pete Pride Festival, and a dedicated Diversity Committee offers suggestions for promoting diversity in the workplace.

In recognition of its diversity awareness programs, Grow Financial recently received the 2010 Most Supportive to Women in Business Award from the eWomen Network; and the 2010 Glass Ceiling Award from the National Diversity Council.

Taking the SPHR Exam..

By Jill Carr, SPHR– Certification Committee

Human Resource Development is “a set of systematic and planned activities designed to provide members with skills to meet current and future job demands”. This definition from the Society for Human Resource Management (SHRM) Learning System was one of the many I had surrounding my office.

My name is Jill Carr and I am Human Resource Consultant. The SPHR designation was something I wanted to achieve to have a nationally recognized level of knowledge for the clients I provide service to on a daily basis. I had committed to the HR Tampa twelve week preparation class and registered to sit for the Senior Professional in Human Resource (SPHR) Exam on December 1, 2012.

I have a Masters in Business (with a concentration in Human Resources) and was named Outstanding Economic Student as an undergraduate; you might surmise that I have taken many tests in my academic career but the SPHR was by far the most challenging.

After attending every session of the HR Tampa prep class and daily reading of the SHRM learning system, studying the flash cards, the wall paper of definitions I had made in my work space and taking all practice tests I could get my hands on the big day came. I was concerned that all the effort was not enough to

pass the test.

I signed up for the first day of the winter 2012 testing window. After being assigned an exam computer I began what felt like a mental marathon. After my preparation I had decided the testing strategy best for me would be to go with my first answer. Finally the last question was completed and it was time to hit the submit button.

The SPHR Exam was very difficult but the rewards have been worth the investment.

After waiting what felt like an eternity the screen appeared announcing that I had passed the test. I left the center with tears in my eyes while calling and texting all the friends and

family that had cheered me on to let them know the miracle of miracles.

The SPHR Exam was very difficult but the rewards have been worth the investment. I have more professional confidence, an enhanced knowledge of best HR Management practices, a competitive advantage in the workplace, and an increased self-assurance of what I can bring to my job as a strategic partner.

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2013 HR FLORIDA CONFERENCE & EXPO

August 19 – 21, 2013

Hilton Bonnet Creek, Orlando, Florida



A Celebration of Excellence...

One year comes to a close as a New year begins



Workforce Readiness partnered with Florida Aquarium on February 16, 2013 to hold a combined function for our 2012 graduation ceremony and 2013 orientation for our Human Resources (HR) Internship Program called the “HR Prodigy Group.” Much like the major expansion project going on now at the Florida Aquarium, The HR Prodigy Group has begun a fresh and exciting expansion of its own. In our third year, the program welcomed thirteen (13) new interns, which is the largest group accepted into the program thus far. In the same day, we graduated five (5) interns from our 2012 program.



The Workforce Readiness Committee truly exhibited great teamwork, and passion to coordinate an event that delivered an inspirational experience for our interns. An informative PowerPoint presentation, titled “The HR Crash Course” was shared with the new interns. The presentation highlighted six core areas of Human Resources. The interns were engaged and enjoyed a fun atmosphere surrounding the study of HR.

The guidelines and expectations of the program were reiterated and interns were given the opportunity to ask questions about the program.



We had several guests such as teachers from prospective high schools (Armwood, Chamberlain, Freedom, Jefferson, and Robinson), who recommended their students for our program, as well as parents and friends of the scholarship winners. We also had several speakers share with our student interns. Jonathan Jarrell of the Florida State chapter of SHRM shared how HR had a positive impact on his life. Bill Eggert, VP of HR at The Florida Aquarium shared about his HR career path and his role at the Aquarium.

One Day, Many Solutions Employment Law Seminar April 11, 2013



*A one day seminar for anyone with responsibility
for managing people and policies impacting the workplace*

HR Tampa members save \$40 with priority code HRT12.

Registration and breakfast begin at 8 a.m. The event ends at 5 p.m.
The cost of the seminar includes breakfast and lunch.

**For more information or registration questions, contact
Angie Titus by phone at (813) 769-7500 or by e-mail at
seminars@laborlawyers.com.**

**April 11, 2013 at Crowne Plaza Tampa-Westshore
5303 West Kennedy Blvd., Tampa**

For a full agenda and to register please visit
www.laborlawyers.com/2013seminars.

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A Celebration of Excellence...

Our own HR Tampa President, Lynette Holsinger came out to share a few insights with the students, and to lend her support to our mission. She shared, “PASSION makes anything possible” and it was evident with the outcome of the day.

There were 42 people in attendance, which was also the largest attendance for our event.

Stephanie Rittenour, District Resource Teacher at Learey Technical Center for Hillsborough County Schools also spoke to the student interns. She was instrumental in getting our committee into the classrooms to recruit students for our program.

One of the highlights of the day was the graduation ceremony for our 2012 group. Originally, we started with eight (8) interns, however, by the end of the 12-month program, we had five (5) student interns, who successfully graduated from the program. Out of five (5) interns, two (2) were selected as the 2012 scholarship winners. Caitlin Fahrson from Leto High School was selected for the largest scholarship award of \$1000

She read her essay about how her participation in the program impacted her life. Her essay was uplifting and very emotional, which was a culmination of many months of hard work and perseverance from Caitlin. She demonstrated the most passion, and drive to succeed in the program. She plans to attend Sante Fe Community College, and eventually transfer to the University of Florida. Our other amazing scholarship winner was Kara Hartman, who also was selected due to her final essay and her dedication to the program. She has been accepted to the University of Tampa on a full scholarship. Kara was awarded a \$500 scholarship for college.

We offer our sincerest gratitude to Bill Eggert and the Florida Aquarium staff for their wonderful hospitality. They prepared a hot catered lunch for everyone and afterwards, invited all to a complimentary visit to the Aquarium for the remainder of the day.

What a great start of the year for the “HR Prodigy Group” Internship Program!



If you are interested in joining the Workforce Readiness Committee, please contact Debby Erdahl at: workforcereadiness@hrtampa.org

