

Connections



Bulletin 3, Volume 54 : March 2010

Inside this issue

Your Business Link to People, News and Services

- Mission Members Recognized 2
- Technology Contributors 2
- Administrative Professionals Day 3
- Benefits Boot Camp 3
- Employment Law Certificate Series Continues..... 4
- 401(k) Fee Case Stands as Precedent 4
- Will Your Health Benefits Be Positioned for the Reform?..... 5
- Online Answers..... 6
- Survey Calendar 6
- Heard It on the Hotline 6
- March & April Training & Events..... 7
- How Will New ADA Regulations Impact Your Company? 8

Employees Salute Neumayer Equipment's President with Patriot Award

by Susan Martin, PHR, member answer center coordinator, AAIM Employers' Association

With ongoing global military operations, support from employers for National Guard and Reserve service is absolutely critical. Recently, a local National Guardsman/Reservist found a way to thank his boss and company for doing just that.

Carl Lipa nominated his boss, Susan Burkhardt—president and CEO of Neumayer Equipment in St. Louis—for the United States Department of Defense Patriot Award. Lipa serves in the Army National Guard and Reserves and has worked for Neumayer Equipment since 2003.

On the morning of December 16, 2009, Special Agent Bob Schure of the US Department of Defense, along with Lipa, several local television crews and other Neumayer employees, disturbed Burkhardt's closed-door meeting. When Burkhardt opened her office door, she was overwhelmed by the surprise gathering of well-wishers.

Burkhardt was presented with the Patriot Award, an honor that specially recognizes employers who strongly support employees in the National Guard and Reserves. Less than one percent of all employers manage to qualify for this honor.



Susan Burkhardt, president/CEO of Neumayer Equipment, accepts Patriot Award from Neumayer employee/Reservist Carl Lipa and Bob Schure, US Department of Defense.

continued on page 3

Mission Members Recognized

by Mary Pille, CAE, SPHR, president, AAIM Employers' Association

Mission members show their support of AAIM Employers' Association and its mission by paying a voluntary 10% mission member contribution. Again, we express our gratitude and appreciation for the organizations that believe not only in the mission of the AEA but more broadly in supporting the philosophy that human resources are an asset of any organization. It is your support that brings us closer to our vision of being the organization of choice for employers to assist them in achieving their business objectives through their people practices.

Adams Electric Cooperative
Adkins Energy LLC
Advanced Asphalt Co.
Advanced Correctional Healthcare
Afini Inc.
American Nickeloid Company
Assisted Housing Risk Management Association
Associated Transfer & Storage, Inc.
B & B Electronics Manufacturing Company
Belvidere Area Chamber of Commerce
Better Banks
Better Business Bureau of Central Illinois, Inc.
Bonutti Orthopedic Services LTD
BPC Inc.
Brewers Distributing Company
Bunn-O-Matic Corporation
Cadbury Adams USA LLC
Carbondale Chamber of Commerce
CGH Medical Center
Charleston Area Chamber of Commerce
Child Care Resource & Referral
City of Peru
Clinical Radiologists, SC
CMFI Group Inc.
CNH Goodfield
Community Child Care Connection Inc.
Cooper B-Line
Counseling & Family Services
Cox Transfer Inc.
Davis & Campbell LLC
Dunbar, Breitweiser & Co, LLP
East Peoria Chamber of Commerce & Tourism
Electrical Controls, Inc.
Entec Services, Inc.
Excalibur Seasonings Company Ltd.
Fayette Companies
First Farmers State Bank of Minier
Forest City Gear Company
Fort Transfer Co.
G & D Integrated
GE Aviation
Gilbert, Huffman, Prosser, Hewson and Barke, Ltd.
Greater Salem Chamber of Commerce
HCC Inc.
Horizon House of Illinois Valley Inc.
Housing Authority for LaSalle County
Hunzeker Service Agency Inc.
Illico Inc. orporated
Illinois Manufacturing Extension Center
Illinois Mutual

Illinois Propane Gas Association
Industrial Support Services Inc.
Integrity Data of IL, Inc.
International Society of Arboriculture
Jefferson County Chamber of Commerce
Kewanee Hospital
Keystone Steel & Wire Co.
Limestone Community High School District #310
Marquette Group/USMotivation
McBride and Shoff Inc.
Morton Buildings Inc.
MTCO
MTM Recognition
Muir Omni Graphics
North American Tool Corporation
Oak State Products Inc.
Ogle County
Oregon Chamber of Commerce
OSF Saint Francis Medical Center
Parker Hannifin Corporation
Parsons Company Inc.
Pearl Companies
Pekin Insurance
Pella Products Inc.
Peoria Citizens Committee for Economic Opportunity Inc.
Peoria Disposal Company
Peoria Surgical Group Ltd.
Potash Corporation
Progressive Health Systems
Pudik Graphics Inc.
RB White Inc.

Resource Management Services, Inc.
Rinella Company, Inc.
RLI
Robert Cottingham Property Management Co.
Rockford Bell Credit Union
Rockford Chamber of Commerce
Rocknel Fastener Inc.
Rohn Products LLC
Rural Electric Convenience Cooperative Co.
SBSi Semonis
Selvaggio Ornamental and Structural Steel Inc.
Shelby Electric Cooperative
Solomon Colors
Southern Illinois Healthcare
Spoon River College
Spoon River Electric Cooperative Inc.
Stevens Industries Inc.
Tazewell County Probation & Court Services
Teelet Technologies Illinois, LLC
The Baby Fold
The Iona Group Inc.
The Swiss Colony Inc.
UDL Laboratories Inc.
Unemployment Consultants, Inc.
United Community Credit Union
Validus Technologies, LLC
Village of Machesney Park
Washington Equipment
Wahl Clipper Corporation
Wesley Willows Corporation
YMCA of Rock River Valley

Technology Contributors

The following members made voluntary 10% technology contributions that have made it possible for us to invest in technologies to better serve our members, including the addition of BLR.com and HRAnswersNow resources.

Bunzl USA, Inc.
Cambridge Engineering, Inc.
Cejka Search
City of Highland
Clayton Corporation
FKG Oil Company
Global Surgical Corporation
Gundlach Equipment Corporation
Hospice of Southern Illinois
J. D. Streett & Company, Inc.
Kellwood Company
LDI Integrated Pharmacy Services
Metal Exchange Corporation
Momentum-NA, Inc.
Paulo Products Company
Prism Medical
Schaeffer Manufacturing Company
Sigma-Aldrich, Inc.
UniGroup, Inc
Watlow Electric Manufacturing Co.



Celebrate Administrative Professionals' Day

St. Louis: Friday, April 23, 11:00am - 2:00pm
Greenbriar Hills Country Club

Peoria: Tuesday, April 20, 11:00am - 2:00pm
TBD

Program: Social Savvy (Now which fork do I use?)
presented by Nancy Cleve

As you dine through five delectable courses, Nancy Cleve will address all of the dining and etiquette questions you have ever had—and more! Sign up now for a fun, yummy “practice” dining experience: www.aaimstl.org/apd.

Members: \$45 NonMembers: \$55

continued from page 1

Currently, Carl Lipa is the only Neumayer employee in the National Guard or Reserves. However, his son Joshua also worked for Neumayer for two years before being deployed to Iraq in 2006. Upon returning from Iraq, he continued his employment at Neumayer.

This is not unusual at Neumayer, a company that's been selling and servicing petroleum equipment since 1934. Neumayer has a rich history of supporting employees who serve their country, including military service by Burkhardt's grandfathers and father.

Even though employers have certain legal responsibilities under the Uniformed Services Employment and Reemployment Rights Act (USERRA), Burkhardt takes those responsibilities as a personal mission. She believes that supporting Lipa and his family as well as other employees who choose National Guard and Reservist careers is simply the right thing to do.

At the time of this writing, Lipa received word that he may be deployed to Haiti for earthquake relief activities. And once again, Burkhardt will make adjustments and certain business sacrifices so that one of her employees can serve for the greater good of our country and the world.



BENEFITS BOOT CAMP

Coming to a location near you!
Peoria: May 18 | **St. Louis:** May 11
 Watch your mail and email for more details coming soon.

HR Data Bytes

Will area businesses be closed (with pay) in observance of Good Friday on April 2 and/or Easter Monday on April 5?

Of 138 St. Louis area employers
 Good Friday: 38% will be closed
 Easter Monday: 2% will be closed

Of 193 Peoria area employers
 Good Friday: 45% will be closed
 Easter Monday: 2% will be closed

Source: 2009-2010 AAIMEA Holiday Survey

Employment Law Certificate Series Continues

Mark your calendars for these upcoming sessions.

Session Prices:
 Member: \$130
 NonMember: \$180



St. Louis Dates

All St. Louis dates are simulcast as a webinar. Please let the registrar know whether you want to attend in person or via webinar.

: Federal Affirmative Action Laws

March 16, 8:30 - 11am

: Lawful Requirements Under Workers' Compensation

April 20, 8:30 - 11am

: OSHA/State Unemployment Compensation Laws

May 18, 8:30-11am

: Register by calling 314.968.5360 or visit www.aaimtrain.org.

Peoria/Rockford Dates

: Protecting the Employer's Competitive Position

March 16, 8:30-11am, Peoria

March 17, 8:30-11am, Rockford

: Employment Hiring Issues

April 20, 8:30-11am, Peoria

April 21, 8:30-11am, Rockford

: Employee Benefits

May 18, 8:30-11am, Peoria

May 19, 8:30-11am, Rockford

Register by calling 800.948.5700 or visit www.eaconnect.com.

The AAIM Employers' Association is a not-for-profit association. This newsletter has been compiled by knowledgeable labor and human resources specialists. It is not intended or designed to render legal advice to its readers.

Editor: Susan Martin
 Asst. Editor: Sarah Wright

401(k) Fee Case Stands as Precedent

by Paul H. Burmeister, attorney, Husch Blackwell Sanders LLP

On January 19, 2010, the US Supreme Court denied a review of a controversial decision in *Hecker v. Deere & Co.* In that case, the Seventh Circuit Court of Appeals found that participants in a defined contribution plan failed to state a claim for a breach of fiduciary duty against the 401(k) plan administrator. Specifically, Hecker, suing on behalf of a class of individuals, asserted that Deere, as a 401(k) plan sponsor and administrator, failed to disclose a fee structure to the plan participants, as well as a 401(k) plan that required investment options with excessive fees and costs. In upholding the lower court's decision, the Seventh Circuit determined that the 401(k) plan had a sufficient number and kind of possible investment options to avoid said breach of fiduciary duty.

The background of this case is fairly straightforward. Deere sponsored the 401(k) plan and engaged Fidelity Trust to serve as the plan trustee. The plan offered a generous choice of investment options for the plan participants, including 23 different Fidelity mutual funds and two investment funds managed by Fidelity, among many other options. The plan participant made the decision where to invest the money in their account, as long as it was in the plan. However, each investment fund came with a fee calculated as a percentage of the assets the participant put into the plan. In short, Fidelity paid itself through the fees of the plan participants. Thus, the twin issues in this case are: (1) is there a breach of fiduciary duty when the fees collected from the investments are shared with the trustee? (2) is there a breach of fiduciary duty when the investment options available come with unreasonably high fees?

Both the District Court and the Seventh Circuit found in favor of Deere and Fidelity on both issues. The basis for the dismissal of the first issue was that the court could not find that the revenue sharing arrangement violated any statute or regulation. Participants were told of the fees imposed by the various investment funds and that the investors were free to allocate their funds to a lower fee investment. Basically, the revenue arrangement was not germane, as long as the fees were disclosed. Second, Deere had provided a significant blend of investment options, thereby allowing investors the opportunity to invest in both low and high fee accounts. Thus, Deere and Fidelity did not breach their fiduciary duty to the investors.

The Supreme Court has allowed this important case to stand as precedent. Plan administrators and advisors should welcome this decision as a reasonable interpretation of the fiduciary requirements under ERISA. On the other hand, in the face of increasing litigation regarding the mismanagement of defined contribution plans as well as proposed regulations by the Department of Labor, other interpretations are inevitably near. Plan administrators should continue to monitor investment fees in their 401(k) plans, disclose fees to plan participants and keep track of the fund selection process to create defenses to similar claims and lawsuits.

Paul Burmeister, associate at Husch Blackwell Sanders LLP in Peoria, Illinois, has worked in the area of labor and employment, with a focus in traditional labor relations. He has represented employers in discrimination lawsuits, administrative hearings and labor arbitration.

Will Your Health Benefits Be Positioned for the Reform?

by Emile A. DesRoches, CME, principal, Mercer Health & Benefits

My first boss—at least in terms of the philosophy of work survival—probably taught me more than anybody since. Her philosophy was, “Get your arms around the challenges to today’s results and be a giant step ahead toward next quarter’s and next year’s requirements.” This isn’t meant to downplay the importance of long-range planning, but rather to emphasize that today’s well-functioning organization is best positioned for future change and growth.

As this is written (late January), the only thing certain about final healthcare reform is its uncertainty as a result of the Republican upset in Massachusetts. While there is no question that the administration’s emphasis has shifted toward job creation and financial regulation, it would be highly unlikely if some effort to pass some reforms were not restarted in Congress. It’s most likely these reforms would center on mandatory coverage and availability requirements, either of which would impact both individual and group insurance markets. Regardless of how these reforms are ultimately funded, there’s certain to be a financial impact on employers.

Whether that impact takes the form of a minimum benefit level, a remnant of the diluted “Cadillac Tax” or something else, the net result in 2013 or 2014 likely is the same. More people will be covered with measurably higher cost for many employer-sponsored plans. The key to success for any employer at that time is to have benefit plans in place that are already as cost-effective as possible.

Important “positioning” questions to immediately consider are:

- 1) Does my insurance carrier or network provider offer a “high performance” network option?
- 2) Are we utilizing all the wellness tools our carrier/administrator provides?
- 3) What duplication can I eliminate? For example, it’s common to have eye exams covered under both medical and vision plans.
- 4) Can “carving out” certain benefits reduce cost? For example, mental health benefits integrated with medical coverage require the same (typically unlimited) inpatient duration as provided for physical illness. A separate mental health plan could have different, less costly limitations.
- 5) What coverage can I liberalize by shifting part to a voluntary plan? For example, preventive dental services could be integrated with medical coverage with remedial services rolled into a voluntary employee-paid option.

Proper planning NOW can be a positive change agent within the overall framework of reform if you restructure the overall benefit package by redistributing “excess” cost into compensation, voluntary benefits, retirement savings and work/life benefits. Within the overall framework of reform, you can:

- implement a core medical plan that meets the mandated minimum value;
- place preventive dental in core medical coverage;
- shift dental, vision and supplemental health coverage to voluntary;
- restructure behavioral health to include health aspects of your Employee Assistance Program (EAP) and change remaining EAP benefits to a work/life program; and
- the most important change from a long-term cost standpoint—strengthen design incentives for consumer behavior change and compliance.

Look Who’s on This Year’s List of 100 Best Companies to Work For!

Congratulations to the four St. Louis companies (and AAIMEA members) on Fortune Magazine’s 2010 list of “100 Best Companies to Work For!”

Build-a-Bear Workshop

Edward Jones

Monsanto

Scottrade

Online Answers

Members now have two options to get HR information online anytime. Participate in one of the following webinars to make the most of your online resources.

BLR

: Friday, March 12, 9:30-10:30am

HRAnswersNow - NEW FEATURES!

: Tuesday, March 9, 9:30-10:30am

: Tuesday, April 13, 1:30-2:30pm

: Tuesday, May 11, 9:30-10:30am

Register by calling 314.754.0199 or 888.325.5212 ext. 1199 or visit www.aaimstl.org/webinar.

Survey Calendar

Mark your calendar to participate in these upcoming compensation surveys. Participants receive **FREE** results!

: **National Executive Compensation Survey**
Results due May

: **HR Metrics Survey**
Results due June

: **Benchmark Wage & Salary Survey**
Opens March

: **Health Services Industry Wage and Salary Survey**
Opens March

: **Manufacturing Industry Wage and Salary Survey**
Opens March

: **Pay Trends Survey**
Opens July

: **Paid Holidays Survey**
Opens July

: **Biennial Policies & Benefits Survey**
Opens August

Contact Liz@aaimea.org to participate.

Heard It on the Hotline

Q. Is a slip-related injury by an employee in the company parking lot on his/her way to work a recordable injury under OSHA?

A. Company parking lots and sidewalks are part of the employer's establishment for OSHA recordkeeping purposes. An employee slipping on a sidewalk on company property while walking to the office to report for work is a work-related incident (for OSHA purposes) regardless of the fact that he/she had not actually checked-in at work yet.

Q. Is it legal for an employer to ask an employee who misses time due to a religious accommodation to make up the time?

A. Employers are required to reasonably accommodate religious practices unless accommodation would cause an "undue hardship" on the conduct of business. Generally, allowing an employee to take unpaid leave as a religious accommodation is considered reasonable. However, the Supreme Court has ruled that unpaid leave is not a reasonable accommodation "when paid leave is provided for all purposes except religious ones." Therefore, if an employer allows employees to take paid time off for personal reasons and does not require them to make up the time, it should not require time to be made up only for absences related to religious beliefs.

Q. Do we need to pay nonexempt employees for time spent volunteering at a company-sponsored charitable event?

A. Volunteers ordinarily will not be considered employees for FLSA purposes if the individuals volunteer for organizations without receiving compensation. Additionally, the volunteer services must be given freely without coercion or undue pressure.

Due to the possibility of coercion to perform unpaid services, paid employees may not volunteer to perform the same type of services for their employer that they are normally employed to perform. Time spent in work for charitable purposes at the employer's request, under the employer's direction or while the employee is required to be on premises is considered working time and must be compensated.

However, time spent voluntarily in such activities outside of the employee's normal working hours is not considered hours worked, as long as the volunteer activities are not the same or similar to the activities the employee is employed to perform.

Call the Member Answer Center team with HR questions of your own. Many members believe this service alone is worth the cost of their membership!

Barb Ruck, barb.ruck@aaimea.org, 314.754.0169 or Susan Martin, susan.martin@aaimea.org, 314.754.0203 or toll free at 877.819.8284.

March & April Training & Events

MARCH

PEORIA

Visit www.eaconnect.com for a complete list of courses and descriptions.

- 3 Downstate Illinois Occupational Safety & Health Day (DIOSH DAY)
- 4 Delegation as a Management & Empowerment Tool*
- 9 Finance for the Non-Financial Manager*
- 10 Customer Service Over the Phone
- 10 Delighting Your Customer
- 11 Employee Handbooks*
- 16 Protecting the Employers' Competitive Position*
- 18 Dealing with Conflict in the Workplace*
- 24 The Role of the HR Assistant*
- 25 Assertive Communication Skills*
- 23 Making the Most of Generational Diversity*
- 31 Return to Work: Managing the Injured Employee*

ROCKFORD

Visit www.eaconnect.com for a complete list of courses and descriptions.

- 17 Protecting the Employers' Competitive Position*
- 23 Making the Most of Generational Diversity*
- 31 The Role of the HR Assistant*

ST. LOUIS

Visit www.aaimtrain.org for a complete list of courses and descriptions.

- 2 Building Influence and Credibility
- 2 Personal Productivity: Getting More Done
- 3 Successful Motivation Strategies
- 3 Surviving and Thriving Through Change
- 4 Building High-Performance Teams
- 9 Business Writing
- 9 Introduction to Human Resources*
- 10 Interpersonal Communication Skills
- 11 Take-Charge Assistant
- 16 Federal Affirmative Action Plans
- 16 Finance for the Non-Financial Manager
- 16 Innovation: Maximizing Limited Resources with Unlimited Ideas
- 16 Federal Affirmative Action Laws*

- 17 Project Management Fundamentals
- 23 Measuring the Impact of Human Resources*
- 23 Your Role as a Supervisor
- 24 Delighting Your Customers
- 30 Diversity and Inclusion Awareness
- 30 Negotiating Skills
- 30 & 31 Kirkpatrick Evaluation Certification Training
- 31 Powerful PowerPoint Presentations

WEBINARS

Visit www.eaconnect.com for a complete list of courses and descriptions.

- 10 Effective Onboarding
- 16 Federal Affirmative Action Plans*
- 25 Handling Employee Complaints*

APRIL

PEORIA

Visit www.eaconnect.com for a complete list of courses and descriptions.

- 7 Supervisor Safety Responsibilities
- 13 Conducting Effective Meetings
- 20 Employment Hiring Issues*
- 22, 29, & 5/6 Supervisor 1 Series*
- 4/22 & 4/23 Advanced Presentation Skills

ROCKFORD

Visit www.eaconnect.com for a complete list of courses and descriptions.

- 6 Return to Work: Managing the Injured Employee*
- 21 Employment Hiring Issues* (Session 11 of the Employment Law Certificate Series)
- 27 Building Commitment and Accountability*
- 28, 5/5 & 12 Supervisor 1 Series*

ST. LOUIS

Visit www.aaimtrain.org for a complete list of courses and descriptions.

- 1 90 Days to Success
- 1 Basic Presentation Skills
- 6 Customer Service Over the Phone
- 6 Introduction to Instructional Design
- 7 Conducting Effective Meetings

- 8 Active Listening
- 8 Personal Productivity: Getting More Done
- 13 Assertive Communication Skills
- 13 Interpersonal Communication Skills
- 14 HR Role in Results-Driven Knowledge Management
- 14 Mistake-Free Writing: Grammar & Proofreading Skills
- 15 Making the Most of Generational Diversity
- 15 Writing Effective Email
- 20 Lawful Requirements Under Workers' Compensation
- 20 Solving Performance Problems
- 21 Behavioral Interviewing Skills
- 21 Maintaining a Union-Free Environment for Managers
- 22 Your Role as a Supervisor
- 27 Dealing With Conflict in the Workplace
- 28 DiSC Train-the-Trainer Certificate Training
- 28 Superior Leadership Through Communication

WEBINARS

Visit www.eaconnect.com for a complete list of courses and descriptions.

- 14 Building Successful Teams
- 20 Lawful Requirements Under Workers' Compensation*
- 20 Putting Your Finger On What's Really Going On



*AAIM Employers' Association is an approved provider of HRCI recertification seminars.

The use of the HRCI seal is not an endorsement by HRCI of the quality of the program. It means that this program has met HRCI's criteria to be pre-approved for recertification credit.



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How Will New ADA Regulations Impact Your Company?

Source: BLR

Given the broader definition of “disability” included in the ADA Amendments Act of 2008 (ADAAA), education is the employer’s main line of defense against disability-related claims.

Key Provisions

The ADAAA, which went into effect in January 2009, expanded the definition of “major life activity” and specified that the effects of mitigating measures (e.g., hearing aids, wheelchairs, and medications) may not be considered when determining whether an impairment substantially limits a major life activity.

Under the ADAAA and proposed regulations, the definition of disability is interpreted more broadly than in the past. “It’s very different than what we have been dealing with up to this point,” says Janine Yancey, J.D., SPHR, and CEO of emTRAIN. Previously, a condition was considered disabling under the law if it had a “severe” impact on an individual’s ability to carry out a major life function, but that is no longer the case. For example, certain “temporary” or “episodic” conditions, such as chronic fatigue, may now qualify for disability protection, according to Yancey.

The proposed regulations also provide guidance on a provision of the law specifying that employers can no longer consider mitigating measures when determining whether an employee is disabled. Previously, if an employee’s condition could be corrected with medication, for example, the individual was not considered to be disabled. However, that same individual could be considered disabled under the new law.

HR Implications

With a broader definition of what constitutes a disability, the ADA is going to apply to a lot more people than it originally did. Yancey offers the following advice to HR professionals:

- Get informed on the provisions of the law.
- Revisit company policies to make sure they are in compliance.
- Err on the side of caution when employees request accommodations for disabilities.
- Train managers on the law and the need to check with HR if an employee has a potential issue that is covered by the ADAAA.

“Any time an employee is indicating in any way that they can’t perform their job or can’t get their job done, that should be setting off bells in the manager’s head,” Yancey says. “Information and education are keys to not making mistakes.”