"Your Workplace Is Our Work"®

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Lehr Middlebrooks & Vreeland, P.C.
2021 Third Avenue North
Birmingham, AL 35203
205-326-3002
www.lehrmiddlebrooks.com

LEHR MIDDLEBROOKS & VREELAND, P.C.
LABOR & EMPLOYMENT LAW

Employment Law Bulletin

To Our Clients And Friends:

An employer's policy to terminate employees who are absent for up to a fixed amount of sick leave was challenged by the EEOC in a lawsuit filed against Denny's, Inc. on September 26, 2006 in the district court of Maryland. The challenged policy caps medical leave for up to twenty-six weeks and in some cases twelve weeks. If an employee is unable to return to work at the conclusion of the leave, the employee is terminated. **The EEOC alleges that this policy violates the Americans with Disabilities Act because it fails to consider an extended leave as a form of reasonable accommodation. This case may lead to significant developments addressing to what extent under the Americans with Disabilities Act an employer must accommodate an employee's medical absence.**

A typical policy provides that if an employee does not return to work from a medical absence within a fixed period of time, the employee is considered terminated, but eligible to apply for re-employment. The one variable of this policy we advise employers to consider is the implication where the absence is due to an employee's disability. Under the Americans with Disabilities Act, reasonable accommodation may include extending medical leave beyond the scope of that limit under the policy. Although rarely would an employer be required to accommodate by providing an indefinite medical leave, a fixed cut-off date that applies to those with disabilities is contrary to the individualized reasonable accommodation analysis required under the ADA.

This case is instructive for employers with such policies to remember the reasonable accommodation analysis. For example, it may be that for certain jobs, an employee who is absent at twenty-six weeks can no longer be accommodated and, therefore, is terminated. However, there may be other jobs (in Denny's case, servers or cooks) where

the turnover is such that it is possible to extend the leave time as a form of reasonable accommodation. **If an extended leave cannot be accommodated and the employee is terminated, we suggest the termination should be a "soft" one. When terminating the individual, tell him or her that the individual is welcome to reapply if and when the individual is able to work, with or without reasonable accommodation.** At that time, the employer will evaluate what is available consistent with the employee's work history and experience.

"AGREE TO DISAGREE" STILL MEANS AN AGREEMENT

Employers often ask whether new policies or changes to policies require an employee's agreement or signed acknowledgment. In many situations, neither is required for the employer to hold the employee accountable to the new or changed policy. **In some instances, such as in the case of *Hardin v. First Cash Financial Services, Inc.* (10th Cir. October 6, 2006), an employee's stated disagreement and rejection of the employer's policy still binds the employee to it.**

The employer operates several check cashing stores and pawn shops. It created a dispute resolution system in 2003 that included arbitration. In communicating this program to the workforce, the employer stated that continued employment meant that the employees accepted the terms and conditions of the mandatory arbitration program. The employer's materials also included a voluntary agreement for the employee to accept the program. Hardin, a manager, refused to sign off on the program and told her supervisor that she disagreed that her continued employment meant that she agreed with the program. Hardin was terminated for other reasons and filed a sex discrimination lawsuit. The company argued that the suit should be referred to arbitration.

In agreeing with the company, the court applied the state's contract law. The court noted the prior decisions in this state (Oklahoma) concluded that an employee's continued employment under the new terms implemented by the employer constituted an "acceptance" of those terms, even if the employee stated otherwise.

What are some lessons learned here for employers? First, know your rights – in some states, changes as significant as a mandatory arbitration agreement can be implemented without the employee's agreement. Second, evaluate when and where an employee's signed agreement is necessary. If an employer has the right to implement provisions without asking for a signature from the employee, why ask? Where the request for a signature is to confirm an acknowledgement of receiving a policy and agreeing to follow it, it is appropriate to write "refused to sign" and to state to the employee that although the employee did not sign the acknowledgement, the employer still holds the employee accountable to complying with the policy.

NLRB DECIDES SUPERVISORY STATUS

On October 1, 2006, the NLRB decided cases arising from *NLRB v. Kentucky River Community Care*, 532 U.S. 706 (2001). In *Kentucky River*, the Supreme Court criticized the Board's interpretation of the Section 2(11) term "independent judgment." As a result, the Board in *Oakwood Healthcare* reexamined and clarified its interpretations of the terms "independent judgment," "assign" and "responsibly to direct." Those terms are set forth in Section 2(11) of the National Labor Relations Act, the section that defines who is a "supervisor" and thus excluded from union representation.

The Board held that supervisory employees could be distinguished by their ability to assign other employees to a location, time, or task and

by their responsibility to give direction, for which they might later be held accountable, using independent judgment. In a 3-2 decision, it held in *Oakwood Healthcare* that 12 permanent charge nurses—but not those that rotated into that position—were supervisory employees. The two dissenting members argued that the Board's interpretation of "assign" and "responsibility to direct" would create a new class of employees who more or less relayed direction from their managers to a few co-workers and otherwise lacked indicia of belonging to a management class. The companion two cases were decided 3-0. In *Golden Care Health Center*, perhaps in contrast to so dire a prediction, charge nurses who were not empowered to keep employees past the end of their shifts and could only call-in an employee with the authorization of their supervisors were found to lack genuine ability to assign. And while the Board found that they exercised responsible direction, it did not find any accountability measure, despite the fact that the charge nurses were evaluated on the quality of direction given to underlings.

In the third and last of these cases, *Croft Metals*, the Board evaluated whether or not so-called Lead Persons belonged in the bargaining unit. The Board decided the Lead Persons should remain in the bargaining unit because - they did not play a role in hiring, firing, or discipline; they did not assign employees to a place or crew but merely meted out tasks for the employees based on the assignment from undisputed supervisors; while they did have the ability to direct employees to those tasks and were held accountable for their crew's performance, the amount of discretion required was merely routine and often dictated by formalized procedures.

SINCE WHEN IS ILLEGAL IMMIGRATION A VIOLATION OF RACKETEERING LAWS?

In the case of *Trollinger v. Tyson Foods, Inc.* (E.D. TN, October 10, 2006) a federal district court judge in eastern Tennessee concluded that a class action claim against Tyson Foods alleging RICO violations may proceed. The essence of the claim is that the company's violation of immigration laws was intentional and for the purpose of lowering the wages of the company's legal employees. The court concluded that plaintiffs met the requirements for the case to proceed as a class action.

The plaintiffs have a tough job for themselves, because they must show not only the employer's intent to depress wages, but also they must prove damages. An employer's responsibility for verifying eligibility for employment (the I-9 form and review of documents) is a light one. A violation of immigration laws may result in criminal sanctions and as this case indicates, a risk of economic harm to the employer.

EEO TIPS: DON'T TURN A DEAF EAR TO HEARING IMPAIRMENTS UNDER THE ADA

This article was prepared by Jerome C. Rose, EEO Consultant for the Law Firm of LEHR MIDDLEBROOKS & VREELAND, P.C. Prior to his association with the firm, Mr. Rose served for over 22 years as the Regional Attorney for the Birmingham District Office of the U. S. Equal Employment Opportunity Commission (EEOC). As Regional Attorney Mr. Rose was responsible for all litigation by the EEOC in Alabama and Mississippi. Mr. Rose can be reached at (205) 323-9267.

In July 2006 in celebration of the 16th Anniversary of the Americans With Disabilities Act, the Equal Employment Opportunity Commission (EEOC) issued a publication to explain the rights of individuals who have a hearing impairment. That publication can be found at the EEOC's website, www.eeoc.gov. In substance the publication, contains numerous examples of work situations which may be faced by an employer in deciding how best to handle an applicant or employee who has some type of hearing difficulty. The major topics covered by the EEOC include at least some answers to the following basic questions:

- How to determine whether a hearing difficulty is a disability under the ADA.

- At what point may an employer ask an applicant or employee about a hearing difficulty and what to do if that information is voluntarily disclosed.
- What kind of reasonable accommodations should be offered, and
- What to do if there are some inherent, genuine safety concerns in the performance of the essential functions of the job because of the applicant's or employee's hearing difficulties.

Perhaps of the foregoing, the most critical determination that an employer must make is whether the individual's impairment with or without a reasonable accommodation would constitute a direct threat to the safety of himself or others**.** Although the number of lawsuits involving direct threats because of hearing impairments under the Americans With Disabilities Act (ADA) may be relatively small compared to other disability suits, the potential for such is growing. According to Sergei Kochkin, Ph.D., who has done extensive research on hearing impairments and published a number of articles on behalf of the Better Hearing Institute and other organizations, it is estimated that the number of people with a "hearing difficulty" ranged from 28.6 million to 31.5 million between the years, 2000 and 2004. Also, according to the U. S. Department of Commerce, the number of persons with a hearing difficulty is expected to rise rapidly by the year 2010 when the "baby boomer" generation reaches the age of 65. Thus, given today's advanced hearing technology, employers can expect a burgeoning number of applicants and/or employees with hearing impairments to apply for many of the positions that hitherto were filled only by persons with perfect or normal hearing.

This trend may be illustrated by at least two recent cases. For example as recently as on October 10, 2006, a case was decided by the 9th Circuit Court of Appeals which ruled that a custom or policy of UPS, Inc. which automatically disqualified deaf and/or hearing-impaired individuals from driving its parcel delivery trucks weighing under 10,000 pounds, was a violation of the Americans with Disabilities Act. The case, *Bates v. United Parcel Service, Inc.*, No. 04-17295 (9th Cir., October, 2006) involved a class of approximately 1,000 current or former applicants or employees who had some degree of a hearing impairment. The class members alleged that they had been automatically screened out of a chance to qualify for driving parcel trucks which weighed less than 10,000 pounds. Incidentally, the drivers of parcel trucks which weighed over 10,000 pounds were subject to federal physical standards set by the Department of Transportation. However, the standards for drivers of parcel trucks under 10,000 pounds were optional with a given company. UPS contended that its policy of weeding out individuals with any significant hearing impairment was a necessary safety precaution inherent with the job and therefore not discriminatory and justified by business necessity. However, the 9th Circuit held that UPS had no right to automatically disqualify deaf or hearing-impaired drivers, and that "**each person with a hearing-impairment should be given the same opportunity as applicants or employees without hearing impairments to show that they can perform the duties of the position safely and effectively"**

EEO TIP: As the above case indicates the key to making a direct threat determination is to make an individual assessment of the applicant or employee. Employers should avoid setting physical qualification requirements which are based on general assumptions as to a broad class of individuals with a particular disability.

A second case which touches upon each the foregoing topics covered in the EEOC's publication, referred to above, is the classic case of *Victoria Rizzo v. Children's World Learning Centers, Inc.* (5th Cir. May, 2000). This case also illustrates an employer's dilemma in determining whether a hearing impairment, per se, under certain conditions constitutes a direct threat. In this case Victoria Rizzo, who

had a hearing impairment, was hired by the Children's World Learning Centers (CWLC) as a Teacher Aid. Among other things, one of her main duties included the driving of children in a van both to and from the school. According to the facts presented at trial, Ms. Rizzo disclosed her hearing impairment to CWLC before she was hired. Additionally, Ms. Rizzo produced evidence at trial to show that she possessed all of the licenses required by the State of Texas to drive school vans; that she had passed all of the evaluations given by CWLC to assess her driving skills with a score above the minimum; and that she was knowledgeable about life saving procedures in the event of an emergency. She also demonstrated how she could be aware of any behavioral problems and take steps to maintain order on the bus by the use of mirrors.

Notwithstanding Rizzo's qualifications and an unblemished record of driving safely and being able to maintain order on the bus, she was relieved of her driving duties by CWLC after a parent observed in the classroom that she had a hearing impairment. The parent asserted that Rizzo's hearing impairment made her a direct threat to the safety and welfare of the children on the bus at least in part because the parent feared that Rizzo could not hear an emergency siren adequately. This too was disproved by Rizzo's furnishing an audiologist's report that showed that she could hear a siren. Although CWLC had a great deal of information about Rizzo's abilities, it nevertheless continued to side with the parent and reassigned Rizzo to other duties without any reduction in pay. Rizzo objected to the reassignment and resigned. Later after exhausting her administrative remedies, she filed the lawsuit in question alleging disability discrimination under the ADA.

The case was tried to a jury which found in favor Rizzo. CWLC appealed to the Fifth Circuit which affirmed the findings of the trial court, but also discussed a number of tangential and/or procedural issues. Among them was whether the employee or the employer shoulders the burden of proving that the disability in question does or does not constitute a direct threat to the safety of the employee or others.

In this case the Fifth Circuit actually ducked the question by deciding only that the Trial Court's instructions to the jury, which were somewhat vague on the burden of proof, "were not plain error." However, the Fifth Circuit's discussion of the issue provides some good tips on how an employer might approach this important issue as follows:

- The Affirmative Defense Approach. Under this approach the Fifth Circuit in this case stated as dictum that since an employee who is a direct threat in effect is not "a qualified individual with a disability," **the employer bears the burden of pleading and proving as an affirmative defense** that the employee in question is a direct threat. (The dissenting judges in this case disagreed with this approach)

- The Case Law Approach Under this approach, an employer would look to the case law decided by the Federal Circuit Court of Appeals over the district in which an employer's business is located to determine upon whom the burden of proof falls. For example the Eleventh Circuit Court of Appeals (over the states of Alabama, Florida and Georgia) has held that the burden of proof **is always on the employee to show that he or she can perform the duties of the position without posing a direct threat to himself or others.** [See *Moses v. American Nonwovens, Inc.* (11th Cir., 1996)]

- The EEOC or Shifting Factual Approach Under this approach the EEOC would shift the burden of proof to the employee or the employer depending on the specific facts in the case. Where the essential job duties necessarily involve the safety of others, the burden would be on the employee to show that he or she can perform those duties without

"endangering others." On the other hand where the alleged threat is remote or not closely tied to the employee's essential job duties, the employer would bear the burden of proving that the impairment in question poses a direct threat. [See EEOC Regulations at 29 C. F. R. 1630.2 (r)]

As can be imagined even from this brief review of the foregoing cases, the term "hearing impairment or hearing difficulty" can refer to a broad spectrum of hearing defects. At one extreme a person who is "deaf" refers to an individual whose hearing impairment will not allow him or her to rely on their hearing to understand or process speech or language. On the other hand persons with moderate hearing difficulties are sometimes referred to as being "hard of hearing" but not necessarily deaf. A distinction would be that those with moderate hearing difficulties usually can use their limited hearing to assist in communicating with others. Both, deaf persons and those who are "hard of hearing" frequently meet the definition of being an individual with a disability within the meaning of the ADA. Accordingly employers may need both medical and legal advice in order to make the proper determination as to how an individual applicant or employee with a hearing impairment should be treated. If you have questions about what steps to take in order to avoid costly discrimination charges or litigation, please feel free to call this office at the number indicated above for legal counsel on any inherent ADA issues.

Having discussed the topics in the EEOC's publication somewhat out of order because of the importance of the direct threat issue, some tips on the other topics will be discussed in this column in the November issue of the Employment Law Bulletin, namely: (a) How to determine whether a hearing impairment is a disability within the meaning of the ADA; (b) when it is legal to make inquiries about hearing impairments, and (c) some practical, reasonable accommodations.

OSHA: WORKPLACE SUBSTANCE ABUSE

This article was prepared by John E. Hall, OSHA Consultant for the law firm of Lehr Middlebrooks & Vreeland, P.C. Prior to working with the firm, Mr. Hall was the Area Director, Occupational Safety and Health Administration and worked for 29 years with the Occupational Safety and Health Administration in training and compliance programs, investigations, enforcement actions and setting the agency's priorities. Mr. Hall can be reached at (205) 226-7129.

Data from multiple sources point to a significant problem with alcohol and drug abuse in our society at large and specifically in our workplaces. OSHA's website notes that **in 2003 about 75 percent of the illicit drug users aged 18 and older were employed either full or part-time. Research indicates that up to 20% of the nation's workers who die on the job test positive for alcohol or other drugs. Alcohol is the most widely abused drug among working adults, with an estimated 6.2% being heavy drinkers.** One account claims to show that up to 40% of industrial fatalities and 47% of industrial injuries can be linked to alcohol and alcoholism. Employed drug abusers cost their employers about twice as much in medical and worker compensation claims as their drug-free coworkers. It is also noted that industries with the highest rates of drug use are the same as those with a high risk for occupational injuries, such as construction, mining, manufacturing and wholesale. According to a survey by the National Institute of Drug Abuse, 28.1% of construction workers admitted to using illegal drugs.

There is some good news evidenced by drug testing. Quest Diagnostics, a major provider of diagnostic testing, found the positive test rate in 2005 to be 4.1%. That was their lowest recorded rate and was dramatically down from the initial rate in 1988 of 13.6% positives.

The Drug-Free Workplace Act of 1988 requires some federal contractors and all federal grantees to agree that they will provide a drug-free workplaces as a precondition of receiving a contract or grant from a federal agency. **OSHA, however, does not have a standard requiring**

employers to have workplace drug and alcohol programs, nor is such a requirement on its regulatory agenda. In some circumstances however, the general duty clause found in Section 5(a)(1) of the OSH Act, may be used to cite an employer for hazards arising from substance abuse. In the absence of a specific standard, a general duty citation may be issued when all of the four following conditions are met: (1) the employer failed to keep his workplace free of a hazard (2) the hazard was recognized (3) the hazard was causing or likely to cause death or serious physical harm (4) there was a feasible means to eliminate or materially reduce the hazard.

A general duty violation in one such case charged that employees were exposed to hazards created by an operator driving a powered industrial truck around the jobsite while intoxicated. The citation went on to state, that among other means, one possible correction would be to develop, implement and enforce an alcohol and drug prevention program with employee testing, daily observation and the monitoring of employees for signs of possible intoxication.

Through its website information on the issue, interpretation letters and alliances, as well as citations, OSHA has demonstrated support for workplace drug and alcohol programs, to include reasonable drug testing. The agency recognizes that impairment by drugs or alcohol can constitute an avoidable workplace hazard. Five components are identified as needed to form a comprehensive drug-free program. They include a policy, supervisor training, employee education, employee assistance and drug testing. OSHA cautions that such programs should be reasonable and take into account employee rights to privacy.

OSHA standard 1910.1020 gives employees access to their won medical and exposure records. This could include drug testing results if they are maintained as a part of the medical program and records. This standard does not apply to voluntary employee assistance programs if maintained separately from the employer's medical program records.

CURRENT WAGE AND HOUR HIGHLIGHTS

This article was prepared by Lyndel L. Erwin, Wage and Hour Consultant for the law firm of Lehr Middlebrooks & Vreeland, P.C. Mr. Erwin can be reached at (205) 323- 9272. Prior to working with Lehr Middlebrooks & Vreeland, P.C., Mr. Erwin was the Area Director for Alabama and Mississippi for the U. S. Department of Labor, Wage and Hour Division, and worked for 36 years with the Wage and Hour Division on enforcement issues concerning the Fair Labor Standards Act, Service Contract Act, Davis Bacon Act, Family and Medical Leave Act and Walsh-Healey Act.

The Wage and Hour Division now has an Administrator, Paul DeCamp, installed by a recess appointment, who will serve at least through the 2007 session of Congress. After the recess appointment the Senate returned his nomination to the White House. Based on some recent opinion letters the agency has released it appears he will continue to lead the agency in the same direction it has been following for the past several years.

Congress has adjourned without further consideration of a bill to increase the minimum wage; however, it is anticipated that they will return for a "lame duck" session after the November election where such a bill could be considered. At this time there it does not appear there will be another effort to pass such a bill. Many states have increased their minimum wage or are considering doing so. For example, the Michigan minimum wage became $6.95 per hour on October 1, 2006 and Florida has announced their minimum wage will increase on January 1, 2007 to $6.67 per hour and tipped employees must receive a cash wage of $3.65 per hour. Arizona voters will act on a measure to establish a new minimum wage of $6.75 per hour. In addition, five other states (Colorado, Missouri, Montana, Nevada, and Ohio) will vote on increasing their minimum wage. If all of these are approved 29 states will have a minimum wage greater than the FLSA rate.

There continues to be significant activity regarding the exempt or nonexempt status. Recently a suit was filed against the Dollar Tree chain of the exemption status of its managers. You will remember that several months ago a jury in Tuscaloosa found for the plaintiffs in a case against the Family Dollar Store chain and awarded the employees several million dollars. It is my understanding the case is awaiting a final order by the judge while the defendant intends to appeal to the Eleventh Circuit Court of Appeals. In another case involving the salaried employees, Lowe's Home Centers has reached a confidential settlement involving as many as 75,000 employees. The plaintiffs had alleged the firm failed to pay proper overtime to its salaried workers.

Wage and Hour's Denver office announced that Center Partners of Ft. Collins, CO has agreed to pay more than $225,000 to some 1400 employees. The violations resulted from the failure to pay preliminary work and to include shift differentials, commissions and production bonuses in the employee's regular rate when computing overtime.

In a case that may have wide ranging implications a U. S. District Court in Georgia recently held that a courier driver who delivered printing jobs could not qualify for the "motor carrier" exemption as he did not driver a commercial vehicle. In a little noticed law, Congress in 2005 changed the definition of commercial vehicle to include only those vehicles that weigh more than 10,001 pounds. As the employee drove his own vehicle or a van supplied by the employer he did not meet this requirement and thus is entitled to overtime pay. As far as I am aware this is the first test of the new definition and if it is determined to be the correct interpretation, employers with local delivery drivers could be facing a major change in how they pay these employees.

A U. S. District Court in Tennessee recently ruled that employees of Pep Boys were not exempt from the overtime provisions of the FLSA as "commission" employees. The court found that the "flat-rate" pay system that compensated employees based on a standardized number of hours for performing a job was not a commission. Therefore, the employees were not exempt from overtime payments. In 2003 there was a class certification and notices were sent to some 90,000 current and former employees but the court reports that only approximately 350 people have chosen to participate in the suit.

Litigation is also pending in a unique case in Louisiana. A group of sales and fan relations employees who work for the NBA New Orleans Hornets are pursuing a claim for overtime. The employer claims that the employees qualify for the "seasonal amusement and recreation" exemption but the court has determined the issue should be decided by a jury.

As you can see failure by employers to follow the regulations of either the Fair Labor Standards Act or the Family and Medical Leave Act can cause substantial problems. Thus, I encourage you to schedule a regular review of your polices to ensure that you are complying with both statutes. If I can be of assistance do not hesitate to give me a call.

DID YOU KNOW…

…that a Chicago area jury awarded $2.35 million against the Chicago Regional Council of Carpenters for defaming a local contractor? *J. Maki Construction v. Chicago Regional Council of Carpenters* (Verdict on September 20, 2006). In an effort to unionize the employer, the Carpenters and their organizers had an informational handbilling campaign. The handbills said that Maki rhymes with "crappy," and that the company built poorly constructed homes. The case took only two days to try. Remember that in many jurisdictions your organization's name is entitled to the same protection from defamation as are you; this includes comments by unions, regulatory agencies, current and former employees and their advocates.

…that an individual with a severely broken arm requiring several surgeries and resulting in lifting limitations was not disabled under the ADA? *Didrer v. Schwan Food Company* (8th Cir. October 16, 2006). According to the court, the surgeries did not prevent the employee from caring for himself on a routine bases. Furthermore, the fact that he had a lifting limitation of 10 lbs. did not mean that he was limited in the major life activity of working. The court concluded that he was not disabled and, therefore, rejected his request that the employer assign another employee to work with him as a form of reasonable accommodation.

…that on October 13, 170,000 Wal-Mart employees were awarded a total of $78.47 million for state and federal wage and hour violations? *Braun v. Wal-Mart Stores, Inc.* (PA. Ct. C.P.) According to the jury, Wal-Mart required employees to work off the clock, work through their 30-minute break period which was deducted from their pay anyway and work after they clocked out. How does one of the world's largest employer's end up with violating basic wage and hour compliance requirements? Pressure to keep labor costs down can become a culture within an organization, resulting in managers taking the non-compliance shortcut as a way to meet corporate objectives. The plaintiffs are also seeking an additional $62 million in liquidated damages, arguing that these violations occurred knowingly and willfully.

…that Pennsylvania is considering a law to limit mandatory overtime for health care employees? Known as the Prohibition of Excessive Overtime Act, the Pennsylvania House approved the bill on October 4, 2006. The bill would prohibit requiring health care employees to work more than a predetermined and regularly scheduled shift, unless agreed to by the employee. Exceptions would be in the event of an emergency. Any employee who worked at least 12 consecutive hours would be required to have at least 10 hours before reporting to work again. Fines could range up to $1,000 per violation.

…that according to the Bureau of Labor Statistics, job openings in August were at the highest level since 2001? The total number of job openings at the end of August were 4,145,000, up from 3,844,000 in July and 3,697,000 a year ago. The industries with the most job vacancies were professional and business services (3.8%) and hospitality (3.7%). The number of employees hired in August declined to 4,694,000, compared to 4,995,000 in July and 4,824,000 for August 2005.

LMV UPCOMING EVENTS

Date: Nov 9, 2006
Affirmative Action for the Savvy Employer: Staying Up to Date on the Changing OFCCP Landscape.
Bruno Conference Center (Birmingham, AL)
David Middlebrooks and Donna Brooks
This three-hour program is geared to the those professionals who have an understanding of affirmative action basics and are looking to increase their effectiveness in managing OFCCP compliance efforts. We'll talk about where the dust has settled regarding the Internet Applicant regulation and the final rules on compensation analysis, and give you strategies for handling the OFCCP's new approach to enforcement. Each attendee will receive comprehensive written materials. The fee for the program is $100 per attendee and $50 for each additional attendee from the same employer.

Date: Nov 13, 2006
The Alabama Employer's Desk Manual Conference
Bruno Conference Center (Birmingham, AL)
LMV's "Alabama Employer's Desk Manual" is the only resource that was written in Alabama, by our Alabama lawyers and consultants, to provide practical guidance to businesses and individuals for addressing a broad range of workplace issues. A copy of this comprehensive guide to federal and state workplace laws and regulations will be provided to each attendee. This program introduces the contents of the "Manual" to attendees so that they can turn to it routinely, and can effectively integrate it into their daily decision-making process.

Nov 15, 2006
Government Contractor Update
Holiday Inn Express (Huntsville, AL)
David Middlebrooks, Donna Brooks and Lyndel Erwin, former District Director of the Wage & Hour Division of the U.S. Department of Labor.
This full-day program will cover the same affirmative action matters addressed in the November 9, 2006

Birmingham seminar, but will also cover the Service Contracts Act, the Davis Beacon Act, and other employment issues such as USERRA, whistle-blowing, and ethical issues.

Date: Nov 15, 2006
Benefits Briefing (Employee Benefits, Including COBRA and HIPAA)
Webinar
Michael Thompson and Donna Brooks

Jan 17, 2007
The Effective Supervisor
Hampton Inn (Montgomery, AL)
LMV Attorneys and Consultants
Over 5,000 business professionals have attended this conference in the past 10 years! For 2006, this popular, one day-program continues to emphasize the fundamentals of successful supervision (by exploring such topics "lawful leadership," performance evaluations, discipline, and discharge), and will include discussions of particular importance to Alabama's business community, including hiring and retention strategies.

For more information about Lehr Middlebrooks & Vreeland, P.C. events, please visit our website at www.lehrmiddlebrooks.com.

LEHR MIDDLEBROOKS & VREELAND, P.C.

Donna Eich Brooks	205/226-7120
Michael Broom (Of Counsel)	256/355-9151 (Decatur)
Whitney Brown	205/323-9274
Lyndel L. Erwin (Wage and Hour and Government Contracts Consultant)	205/323-9272
John E. Hall (OSHA Consultant)	205/226-7129
Jennifer L. Howard	205/323-8219
Richard I. Lehr	205/323-9260
David J. Middlebrooks	205/323-9262
Jerome C. Rose (EEO Consultant)	205/323-9267
Michael L. Thompson	205/323-9278
Albert L. Vreeland, II	205/323-9266
Sally Broatch Waudby	205/226-7122

Birmingham Office:
2021 Third Avenue North
Post Office Box 11945
Birmingham, Alabama 35202-1945
Telephone (205) 326-3002

***Decatur Office*:**
303 Cain Street, N.E., Suite E
Post Office Box 1626
Decatur, Alabama 35602
Telephone (256) 308-2767