

MERIT SHOP

CONTRACTOR

WISCONSIN

**THE HUMAN
RESOURCES AUDIT**

**WORKING WITH
DIFFICULT EMPLOYEES**

**THE ART OF
ONBOARDING**

**HOT HR ISSUES ...
FROM THE LEGAL SIDE**



SOLVING THE HR PUZZLE

AUDITS, IMMIGRATION, INDEPENDENTS, ONBOARDING, AND MORE

ALSO INSIDE:
**MEMBERSHIP NOW
INCLUDES HUMAN
RESOURCES CONSULTING**
PAGE 5



ABCWI.ORG

EXCEPTIONAL DESIGN FOR HEAVY LIFTING



MADISON

608-241-4092
800-825-0640

MILWAUKEE • 414-463-5438
OSHKOSH • 920-235-2411
LA CROSSE • 608-784-4862
GREEN BAY • 920-235-2411
TOMAHAWK • 920-235-2411

FEATURED CRANE

LIEBHERR

LTM 1450-8.1 550T ROADABLE ALL-TERRAIN

This 550-ton roadable all-terrain is designed for impressive lifting work with high capacity loads. Its roadable design means it can be quickly prepared for use once reaching site.

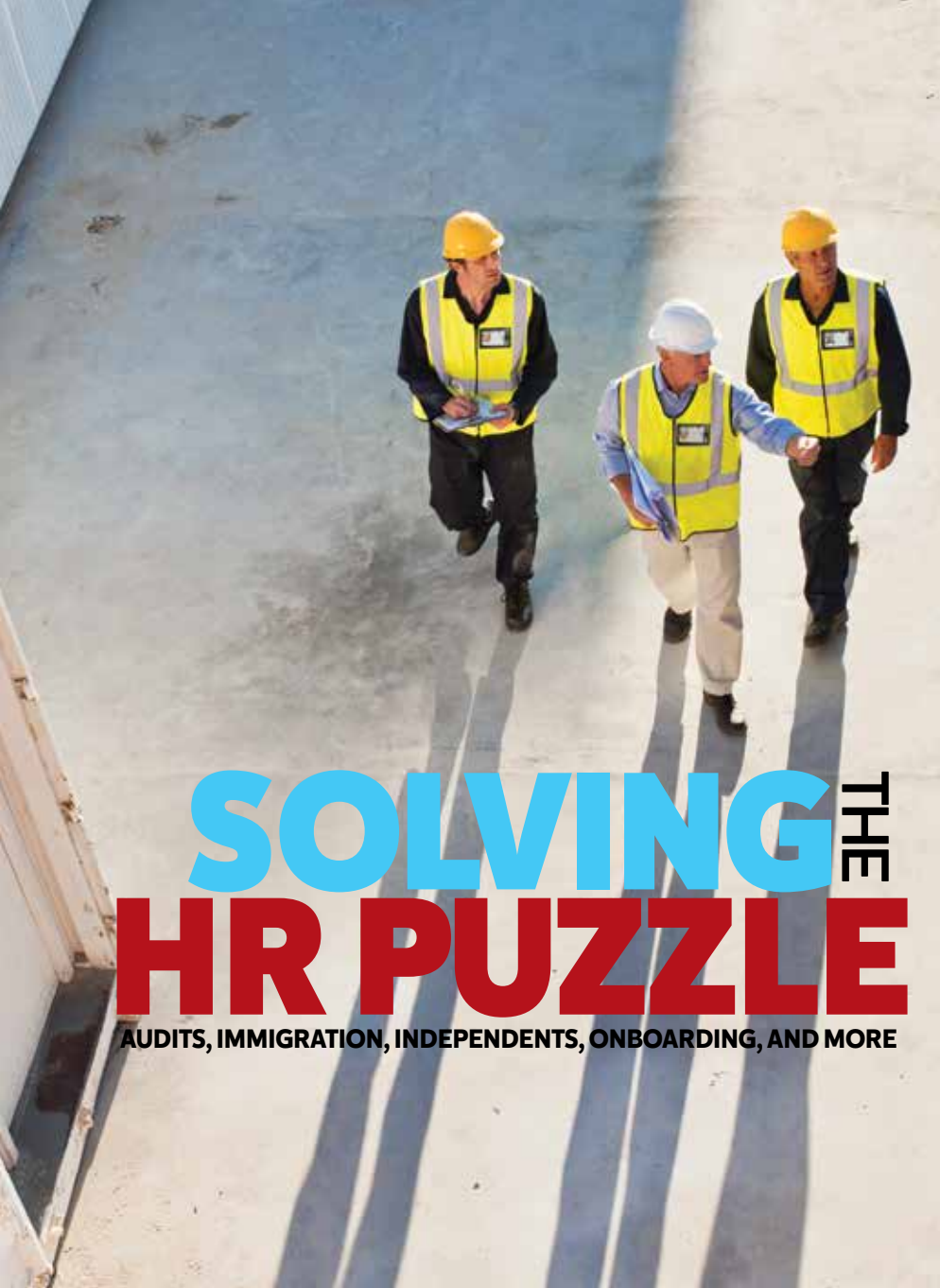
APPLICATIONS

- Parking Structures
- Tip Up Wall Panels
- Precast Concrete Wall Panels
- Steel Erection
- Machinery Installation
- Wind Turbine Maintenance
- Power Plants

CRANE RENTAL • FORKLIFTS • MANLIFTS • TRUCKING • SALES • SERVICE • RENTAL

IDEALCRANE
RENTAL.COM

IDEAL
CRANE RENTAL, INC.



MERIT SHOP CONTRACTOR

TABLE OF CONTENTS

SEPTEMBER / OCTOBER 2019

- 5 President's Message**
Membership now includes human resources consulting
- 6 The Human Resources Audit**
Intimidating? Yes, but an effective audit has rewards
- 10 Working with Difficult Employees**
- 13 Hot HR issues**
... from the legal side
- 18 The Art of Onboarding**
Effective onboarding pays long-term dividends
- 22 Associated Builders and Contractors New Members**



Website: www.abcwi.org
ABC National: www.abc.org

President and Publisher: John Mielke
Managing Editor: Kyle Schwarm
Associate Editor: James Debilzen
Art Director: Jayne Laste Design Solutions LLC

-  www.facebook.com/abcwi
-  www.linkedin.com/company/abc-of-wisconsin
-  twitter.com/ABCofWisconsin
-  YouTube.com/TheABCWI
-  ABCWisconsin

Merit Shop Contractor Wisconsin is published six times annually by **Associated Builders and Contractors of Wisconsin, Inc.** (ISSN# 10642978)
5330 Wall St., Madison, WI 53718. Periodicals Postage Paid, Madison, WI and other additional mailing offices. (UPS 340-650). Subscription price is \$50 per year.

For membership information, contact Deanna Regel at ABC of Wisconsin
(608) 244-5883 or fax **(608) 244-2401**

Postmaster, send address changes to:
ABC of Wisconsin, 5330 Wall St.,
Madison, WI 53718



Building protection for your business

If you're a commercial contractor, we can design construction coverages just for you. We'll provide:

- Experienced safety services
- Knowledgeable claims staff
- Local underwriting

We're proud to be ABC-endorsed, and we look forward to building a relationship with you. Let's talk.
[sentry.com](https://www.sentry.com)

Property and casualty coverages are underwritten, and safety services are provided, by a member of the Sentry Insurance Group, StevensPoint, WI. For a complete listing of companies, visit [sentry.com](https://www.sentry.com). Policies, coverages, benefits, and discounts are not available in all states. See policy for complete coverage details.

FROM OUR PRESIDENT

Membership now includes human resources consulting



AT ABC OF WISCONSIN, WE LIKE TO THINK THAT SUCCESS IS THE RESULT OF DELIVERING SERVICES TO HELP MEMBERS OPERATE THEIR BUSINESSES. Not every service is useful to every member, but before a service is added, it is carefully considered to ensure it will bring value to members. Often, the relevant service emerges from strategic planning.

Our newest service is no different. After careful consideration and approval by chapter leadership, ABC of Wisconsin developed a plan for hiring a full-time human resources consultant. That plan was successfully executed over the last nine months. As a result, members now have access to a human resources expert who can answer important personnel questions or consult with you on a contract basis.

Kate Schieldt is our new ABC of Wisconsin director of Human Resources Consulting. Kate has more than 20 years of experience in human resources with a southern Wisconsin manufacturer with more than \$350 million in annual sales. She has handled human resources strategic development and implementation, compliance, policies and procedures, talent acquisitions, organizational development, compensation and benefits, performance management, environmental health and safety, occupational health, on-site medical clinic and self-insured worker's compensation. She also owned and operated her own human resources consultancy firm working with small to mid-size employers. She earned a master's degree in Business Administration and is a Senior Certified Professional through the Society of Human Resources Management (SHRM-SCP).

“ MEMBERS NOW HAVE ACCESS TO A HUMAN RESOURCES EXPERT WHO CAN ANSWER IMPORTANT PERSONNEL QUESTIONS.

The service is very similar to the chapter safety consulting. At any time, you can call the ABC office and ask to speak to Kate with any questions about human resources as part of your membership. She is also available to handle larger projects, such as employee handbook review or human resources audits on a fee-for-service basis. She can also work with you on a contract basis one or two days a month. The new service is ideal for members who are not large enough to have someone handling human resources issues full time.

We are fortunate to have Kate, who is the ideal person to provide this valuable service. Call Kate at ABC of Wisconsin (608-244-5883) with any questions or to learn more about the services she can provide you.

— John Mielke



Kate Schieldt



The HUMAN RESOURCES AUDIT

*By Kate Schieldt —
ABC of WI Director
of Human
Resources
Consulting*

INTIMIDATING? YES, BUT AN EFFECTIVE AUDIT HAS REWARDS

When one thinks of a human resource (HR) Audit it usually gets a response such as, “That sounds expensive,” “We don’t have the time,” or, “Will it be worth the investment?” Any type of audit can be intimidating, but let’s look at an HR audit, the types of audits, and the benefits of conducting an audit.

The purpose of an HR audit is to take an in-depth look at your HR function and assess the level of compliance and effectiveness of policies, procedures and programs. HR faces an ever-changing and complex regulatory environment, a competitive job market, and pressure to offer best practices in establishing best places of work. The audit helps in identifying regulatory gaps, out-of-date and/or inconsistent policies and practices, areas of best practice opportunities and strategic alignment.

There are several different types of HR audits. An HR audit can be structured to be either comprehensive or specifically focused, within constraints of concerns, time, budgets and staff. Each audit type is designed to accomplish different objectives. Information from the Society of Human Resource Management (SHRM) provides information of types of audits.

COMPLIANCE:

Focuses on how well the organization is following federal, state and local regulations. This audit generally consists of an evaluation of an organization’s operation HR policies, practices and processes (e.g. recruiting, on-boarding, compensation, benefits, performance management, employee relations, training and development). It also will look at HR indicators that may signify areas to further analyze (e.g. turnover, absenteeism, employee satisfaction, employee complaints, number of legal complaints). The benefits of conducting this type of audit is to understand a company’s strengths, weaknesses and vulnerable compliance areas.

BEST PRACTICES:

Helps an organization maintain or improve a competitive edge by comparing its policies,



THE PURPOSE OF AN HR AUDIT IS TO TAKE AN IN-DEPTH LOOK AT YOUR HR FUNCTION AND ASSESS THE LEVEL OF COMPLIANCE AND EFFECTIVENESS OF POLICIES, PROCEDURES AND PROGRAMS.

benefits and other practices with those companies identified as having exceptional human resources and benefits practices. This can provide information as to practices that have an influence on culture, strategy, talent acquisition and retention.

STRATEGIC:

Focuses on the HR department's policies, programs and strategy to determine whether there is alignment within the HR department and the organization's strategic plan. HR practices can help, hinder, or have little impact on the business goals of the organization. This focus can define the strengths and weaknesses and consider opportunities to more effectively and efficiently align with the organization's strategy.

FUNCTION-SPECIFIC:

Focus will be on a specific HR function (e.g. I-9's, file management, records retention, performance management). There may be a specific area of focus needed to assure compliance and the function is meeting the proper standards.

In determining what type of audit to conduct, an organization must look within and be open and honest on need. You may be a smaller organization, or an organization that has experienced rapid growth and needs to "catch up," a large organization want-

ing a third-party review, or perhaps the human resource responsibility has fallen on several people and not sure if completeness, compliance and consistency if where it should be. Regardless of the reason, an in-depth look at your HR function can aid in risk mitigation, assist in defining the priorities of the changes, and advance the effectiveness of your department.

Any audit can be a laborious and an intensely focused project. It can require a review of all policies, procedures and procedures, require a review of numerous documents, discussion with staff and (employees and managers) from any department. The benefit of doing the audit is risk mitigation, positive workplace environment, regulatory environment and strategy alignment.

In looking at risk mitigation, many lawsuits are related to hiring, discipline, employee discrimination, discipline, wrongful termination, and performance management. There are also additional risks that should be considered an audit.

WAGE AND HOUR COMPLIANCE:

This can include, but is not limited to, misclassification of exempt and non-exempt positions, pay equity, and off the clock work for non-exempt employees.

THE SPECIFIC STEPS OF THE HR AUDIT ARE SET FORTH BY THE SOCIETY FOR HUMAN RESOURCE MANAGEMENT:

- 1 *Determine the scope and type of audit.*
- 2 *Develop the audit questionnaire.*
- 3 *Collect the data.*
- 4 *Benchmark the findings.*
- 5 *Provide feedback about the results.*
- 6 *Create action plans.*
- 7 *Foster a climate of continuous improvement.*

PERSONNEL FILES:

Improper document storage in the personnel file can be in violation of regulatory standards. For example: personal health information may be in the personnel file despite medical privacy law requiring personal health information kept in a separate file. Inadequate documentation of performance, discipline and/or terminations (e.g. vague, non-documented or inconsistent actions). Performance evaluations may have inappropriate information, ambiguous, inaccurate or outdated.

I-9 FORMS:

Mistakes, missing or incomplete forms, late completion of forms.

PROHIBITED ATTENDANCE POLICIES:

Controlling attendance can be important, but there are complex regulations (both state and federal) that have attendance protections that must be considered when formulating attendance policies.

It is very important that executive management is fully engaged and supportive of an audit and its findings to provide support and influence in making the necessary changes. Once a decision is made to conduct an audit, the organization must decide as to who

will perform the audit. An in-house HR team can perform the audit if they have the expertise, experience, willingness and objectivity to complete the audit. Other options are to hire an outside consultant or attorney. If an audit is conducted with internal resources or with an outside consultant, everything connected with the audit can be subjected to discovery in litigation relating to employment practices. If an organization has concern about this, they should discuss this with their legal counsel.

THE SPECIFIC STEPS OF THE HR AUDIT ARE SET FORTH BY THE SOCIETY FOR HUMAN RESOURCE MANAGEMENT:

Determine the scope and type of audit

If there has never been an audit completed and there is concern that you may be out of compliance you may want to consider a full audit. If the concern is regarding a certain area you may want to only audit that area. It is very important to closely define the scope and type of audit the organization wishes to complete.

Develop the audit questionnaire

This questionnaire is a comprehensive list of all areas to be

reviewed in a specific area. Time and resources will be needed to develop this comprehensive questionnaire to assure all areas will be reviewed in the audit. This will be a key document to assure a comprehensive review. Gathering of information can also include, employee interviews, observations, file reviews, or anything else deemed important and necessary.

Benchmark the findings

The information gathered should be benchmarked against similarly situated organizations or internal benchmarks.

Provide feedback about the results

A detailed and complete report of the findings. This can include strengths and weakness, compliance issues, opportunities, and impact or potential impact on the organization.

Create action plans

Putting the information learned into action is important. Recommendations can spark discussion on how to manage findings. In the end, an action plan(s) with assignment of responsibilities should be completed.

Foster a climate of continuous improvement

Follow-up on the action plans is an important step to ensure effectiveness. An organization may have repeat audits, spot audits, or other defined measurements to assure success of action plans and adjust if necessary.

Another approach from SHRM is to designate someone on staff (or an outside consultant) to monitor legal developments to ensure that HR policies and practices are kept current. Likewise, organization should keep track of the audit findings and changes made, turnover, complaints filed, complaint issues and employee survey results to identify trends in the organization's employment-related issues. Identifying problematic issues, growth areas or declining problem spots can help in the decision of where to allocate time, money and preventive training. 🇺🇸

Putting the information learned into action is important.

You have years of memories in this house. The most valuable things your family will ever own.

**WE CAN HELP YOU PROTECT IT WITH
A HOME AND HIGHWAY® POLICY
FROM WEST BEND.**

West Bend can also help protect something else of value ... your identity. That's because the Home and Highway policy offers coverage for expenses you may incur if your identity is stolen. And that's not all. Because you're a member of the **ABC of Wisconsin**, you could also receive a discount on your annual premium.



Celebrating 125 years of providing the Silver Lining to our valued customers.



To find out what else the Home and Highway has to offer, contact an Official Supplier of the Silver Lining.

Visit thesilverlining.com for the name of the agency nearest you.



WORKING WITH DIFFICULT EMPLOYEES

By Deb Marshall — Senior Manager, HR Consulting, Wipfli LLP

Every manager has those employees who are just difficult to work with. And even if one of them leaves, it seems like someone else steps up to take their place. How you interact with difficult employees (whatever the reasons may be) really defines who you are as a manager and your other employees are definitely watching you. Your mindset, your approach, and how you define your expectations for employee behavior and performance will determine your success.

“Mindset: Our traditional approach to difficult employees is to march down the path of progressive discipline – oral warning, written warning, suspension, and termination. It seems we are often more interested in building the file against the person, than making the effort to understand what the problems are and how they could be fixed. Addressing this process as a way to build individual employee responsibility for expected behavior/performance (vs. trying to punish them) means you are now working with your employee to positively resolve a problem. It is the employee’s responsibility to behave and perform to the job description. You are there to remind them of that responsibility. Of course, this means you clearly define those expectations and hold them accountable. This is, unfortunately, where we see so many managers falter.

**“WHAT YOU
PERMIT, YOU
PROMOTE”**

QUINT STUDER

Many people are “externalizers” who blame others/fate/bad luck/circumstances for their problems with attendance, work quality, poor working relationships, etc. What we want to cultivate is “internalizers” who recognize that they really do have a lot of control over what happens to them (good and bad). They take personal responsibility for their actions and decisions, address problems and work to fix them – their “locus of control” is internal. Seeing this difference is a shift in mindset and can have a dramatic impact on how you approach problem situations as a manager.

EES



Approach: As human beings, we often can see the speck in someone else's eye but not the log in our own. How we approach a conversation with a challenging employee is critical. The first 30 seconds of the words coming out of your mouth will set the tone. Will you provoke defensiveness and tumble into a downward spiral of debate, or come across as a coach that is truly interested in helping an employee improve their prospects for long-term employment and rewarding work? Here are five questions to ask yourself before ANY interaction you have with a difficult employee:

Did the employee clearly understand the standard, expectation, or policy in question?

Did the employee know, in advance, that such conduct or behavior could be subject to corrective action?

Was the problem behavior/performance reasonably related to the safe, efficient, and orderly operation of the business?

Is there enough evidence that the employee actually did violate a standard, expectation or policy? (or just hearsay?)

Is the action you may be planning to take reasonably related to the seriousness of the problem, to the employee's record with the organization, and to the action taken with other employees who have been involved in similar situations?

Start off the conversation in a matter-of-fact manner with words like "Joe, I have a problem and need your help." This shows that YOU have the problem and need THEIR help to fix it, which helps reduce defensiveness. If the conversation turns defensive, then back-pedal to restore a condition called "safety." Safety, in this context, is based on mutual purpose and mutual respect. Mutual purpose means that we want the same thing – good working relationships and quality work performance. Mutual respect means that despite our differences of opinion/politics/culture/etc., we will speak respectfully and not yell at each other. If it comes to that, then part ways for a while and come back later when the adrenaline subsides, and you can be rational (vs. emotional) again. As a manager, if you stoop to disrespectful behavior or flexing your positional power, you set the standard very low and make it a lot more difficult to retain or regain respect.

Defining Expectations: As an HR consultant for the past 30 years, I can't tell you how many times I've talked with a manager/owner about a problem employee situation and when I ask, "Does the employee explicitly know what your expectations are?," I get the response "Well ... they should know by now!" And therein lies the problem. It seems to be very difficult for many managers

to clearly define appropriate behavior and work performance. Job descriptions are a good place to start, but it really is more about having that on-going dialogue with your employees regarding what is going well on a job, and what isn't. We often only talk with people when something bad happens and ignore the great quantity of good things that most employees do on a daily basis. Take the time to notice and tell people what they are doing well! That defines what your positive expectations are, and chances are you'll get more of the good behavior you made the effort to notice. Your positive words alone can be a great reward.

We all do what we do for a wide variety of reasons and we can't hope to understand how any one person got to their place in life at this moment, and vice versa. We CAN try to understand what influences behavior – our own and others – and work to address those influencing factors to improve our results. Usually, it comes down to a combination of six types of motivation and ability influencers: personal, social, and structural motivation and personal, social, and structural ability.* Understanding these can help us both diagnose problems and craft solutions.

Conclusion: Although some managers are naturally good at do-

Take the time to notice and tell people what they are doing well!

ing this, the skills described here are definitely learnable. No one is perfect at this all the time (we ARE human) but you can learn to diagnose where you went wrong and go back to address it again. It's a manager's responsibility to get work done with and through other people, and that is no easy task. Improving manager skills can be a great way to promote

good employee relations and retain talented people by working through difficult problems. Will you still have to terminate some employees? Yes, of course, but when addressed with skill and respect, that should become a rare occasion.

Google did research a few years ago called "Building a Better Boss" and came to this conclusion:

"What employees want are even-keeled bosses who take time for one-on-one meetings, who help people puzzle through problems by asking questions, not dictating answers, and who take an interest in employee's careers and personal lives."

That's the kind of boss I want, and the kind of boss I'd like to be!

Deb Marshall can be reached at dmarshall@wipfli.com.

**Based on concepts from two great books – "Discipline Without Punishment" by Dick Grote, and "Crucial Accountability" by Patterson, Grenny, McMillan and Switzler.*



ARE YOU COMPETING FOR A SKILLED WORKFORCE?

ABC's Dental Plan Can Help Your Firm

Recruit and Keep Quality Employees

- Rates guaranteed until 2022
- Exclusively for ABC member firms
- Multiple plan designs to fit your needs and budget
- Enhanced \$5,000 annual maximum available
- Access to extensive MetLife network

Request your free quote today!

(800) 621-2993

ABCInsuranceTrust.org



INSURANCE TRUST



- **QUALIFIED RIGGER/SIGNALPERSON**
September 20, Appleton
- **30-HOUR OSHA FOR CONSTRUCTION**
September 25-26, Madison
- **RESIDENTIAL WIRING - PART 1**
September 25, Madison
- **PLAN & SPEC READING**
September 25, Green Bay
- **NETWORKING SOCIAL**
September 26, Stevens Point
- **QUALIFIED RIGGER/SIGNALPERSON**
September 27, Fond du Lac
- **PROJECT COORDINATOR**
Oct. 3 - Nov. 14, Madison
- **PROJECT SUPERVISION**
Oct. 17 - Sept. 11, Madison
- **NETWORKING SOCIAL**
October 17, Eau Claire
- **QUALIFIED RIGGER/SIGNALPERSON**
October 18, Pewaukee
- **HR CONFERENCE**
October 23, Wisconsin Dells
- **MEET THE GENERALS**
November 7, Green Bay
- **SAFETY LEADER 101**
November 12, Madison
- **NETWORKING SOCIAL**
November 20, Pewaukee/Waukesha
- **CONSTRUCTION FOREMEN**
December 6, Madison
- **NETWORKING LUNCH**
December 10, West Bend

Do you feel like something's missing?

Without The Daily Reporter, chances are you're not getting enough:

- Project bid listings.
- Construction industry news.
- Sales lead opportunities from public notices.



The Daily Reporter is in your mailbox five days a week with project bid listings and construction news PLUS you can visit us any time at dailyreporter.com.

As a special membership benefit, you'll **SAVE \$36** on print/online combo subscription or **\$25** on a digital-only subscription.

Subscribe online! <https://subscribe.dailyreporter.com/MemberRate-ABC>
Subscribe on the phone! Call 800-451-9998 and request
Promo Code "MemberRate-ABC"



FREE: Sign up for our daily Hard Hat email newsletter at DailyReporter.com

To advertise in The Daily Reporter, call 414-225-1844



HOT HR ISSUES FROM THE LEGAL SIDE

By Douglas E. Witte — Boardman & Clark, LLP

Many legal issues have a significant impact on an employer's human resource function. Currently, and looking forward to 2020, some of the significant legal issues employers will need to keep their eyes on include the following:

IMMIGRATION

Given the presidential election cycle we are in, immigration and immigration-related issues tend to be on the front page of the newspaper, or on the nightly news, or in your news feed every day. Regardless of how the overall immigration issues get handled, there are two significant legal issues in this area employers should not lose track of.

I-9 Forms

The I-9 form is used for verifying the identity and employment authorization of individuals hired for employment in the United States and has been required for all new hires after Nov. 6, 1986. All employers must ensure proper completion of the I-9 form for each individual they hire for employment. This includes citizens and non-citizens. Both employees and employers must complete portions of the form. An employee attests to his or her employment authorization and must also present acceptable documents evidencing identity and employment authorization. An employer must examine the employment eligibility and identity documents an employee presents to determine whether the documents reasonably appear to be genuine and relate to the employee and record the document information on the I-9 form. Employers must retain the I-9

LEGAL ISSUES EMPLOYERS WILL NEED TO KEEP THEIR EYES ON:

- IMMIGRATION
- CONTRACTORS
- DEPARTMENT OF
LABOR WAGE AND
HOUR ACTIVITY

form for the latter of three years after the employee's date of hire or one year after the employee's termination.

While the I-9 form has undergone a few modifications and changes over the last couple of years, employers should make sure they are using the most current I-9 form, regardless of whether they are using the electronic version or a printed copy. (A filled-out printed copy must be kept.)

Employers may wish to conduct an audit of their I-9 forms and processes to ensure the forms are being filled-out correctly. If an employer discovers that there are errors on an I-9 form, those errors should be corrected, and the new information should be initialed and dated. Do not erase, white-out, or otherwise backdate any forms.



If you discover problems with your I-9 forms or process, you should take steps to address those problems and correct your process. With the increased exposure to immigration issues in the press and presidential debates and election, the I-9 forms is one area employers should definitely be cautious of.

SSN No Match Letters

The Social Security Administration has resumed its practice of sending “mismatch” letters to employers. These letters are now called “Employer Correction Request Notices (EDCOR).” Employers who receive these mismatch letters have a host of worries, including: concern for employees’ well-being, disruption to business operations, fear of future enforcement actions and penalties by the U.S. Immigration and Customs Enforcement (ICE), and confusion over what, if anything, the company must or should do in response to such a notice. Some employers have adopted uniform policies on what to do when receiving a mismatch notice while others address each employee situation on an individualized basis.



SSN NO MATCH LETTERS

Some practical considerations an employer may wish to consider when receiving a mismatch letter include:

- ❶ **DON'T PANIC.** Merely receiving a mismatch letter does not mean employees have provided you or the government with false information or are not authorized to work in the United States. It simply means there is a conflict in information the government has received.
- ❷ **OBTAIN A LIST OF AFFECTED EMPLOYEES AND VERIFY COMPANY RECORDS.** The company should use the SSA's online system and check that information against the company's records to see if there was a clerical or typographical error.
- ❸ **INFORM AFFECTED EMPLOYEES.** Employees should be given the opportunity to address any discrepancy and provide clarifying information.
- ❹ **GIVE EMPLOYEES A REASONABLE PERIOD OF TIME TO RESOLVE THE MISMATCH.** Typically, employers give employees between 60-120 days to address the mismatch letter before they need to take any further action.
- ❺ **MAKE AN INFORMED DECISION ON CONTINUED EMPLOYMENT.** If the mismatch issue remains unresolved, the company will have to decide whether it can continue to employ the individual.

While receiving a mismatch letter can be disconcerting, employers should be careful not to engage in any sort of discrimination or retaliation against an employee when investigating a potential SSN mismatch. Such action could violate the immigration law itself.



In April 2019, Gov. Tony Evers announced Executive Order 20 in which he created a Joint Enforcement Task Force on Payroll Fraud and Worker Misclassification.

INDEPENDENT CONTRACTORS

The use, and misuse, of independent contractors continues to be an area targeted by both state and federal government agencies.

This is not a new problem and certainly not new to the construction industry. However, recent efforts by government agencies suggest a crackdown is underway. In particular, in April 2019, Gov. Tony Evers announced Executive Order 20 in which he created a Joint Enforcement Task Force on Payroll Fraud and Worker Misclassification. The Task Force was created to foster a collaborative investigation and enforcement effort by agencies in Wisconsin. The goal of the task force is multifaceted, including:

❶ Reducing the millions of dollars of losses to state government due to underpayment of wages, unemployment insurance, worker's compensation insurance, and payroll taxes.

❷ To make sure that workers receive the compensation and benefits they deserve.

❸ To even the playing field for employers who are being underbid by employers who misclassify workers as independent contractors to gain an unlawful competitive advantage.

Some of the confusion regarding independent contractors arises because every law and agency typically uses a slightly different test

for determining whether an individual is an independent contractor or an employee. Further, the agencies keep changing their tests, so keeping up with changes is difficult.

While a summary of any single test or the multitude of tests applying to independent contractors is impossible in this article, two common questions underlie the factors many of these tests use:

❶ Does the employer exercise too much control over the performance of the work of the independent contractor?

❷ Can the individual lose money in the performance of work?

It is strongly advised that employers who wish to use independent contractors enter into a written independent contractor agreement setting forth the details of the work to be performed, the payment method, a statement that the contractor is responsible for paying all taxes, and a statement that the individual is in fact an independent contractor. It may be advisable for employers to utilize legal counsel to assist in drafting such a contract.

DEPARTMENT OF LABOR WAGE AND HOUR ACTIVITY

The Department of Labor (DOL) has been active in issuing new rules and guidance on a variety of wage and hour issues over the past year, many of which apply to the construction industry.

Overtime Rules

Any day now, the DOL should be finalizing its overtime, which are scheduled to take effect on Jan. 1, 2020. While these overtime rules have been in the news since President Barack Obama first directed they be reviewed in 2014, they have yet to take effect. The most anticipated change is the salary level that must be met in order to qualify as an exempt executive, administrative or professional employee. The new proposed salary level is \$679 per week (equivalent to \$35,308 per year) which is up significantly from the current minimum salary level of \$455 per week (equivalent to \$23,660 per year).

Unless there are additional changes to the final rules, the proposed rule does not include any changes to the “duties” tests for executive, administrative, or professional employees. These tests can be difficult for employers to interpret and apply. Many employers misclassify their employees and there has been concern expressed that once the final rules are in effect there will be increased enforcement in determining whether people are using the “white collar” exemption correctly.

There were also no changes proposed for what it means to be paid on a “salary basis.” However, employers still must be vigilant in making sure that their salaried employees are not having improper deductions made from their salary.

Clarification On “Regular Rate”

In March 2019, the DOL issued a proposed rule to clarify what types of compensation may be excluded from an employee’s regular rate of pay for overtime purposes. As employers should know, all non-exempt employees must receive 1.5 times their regular rate for all hours worked over 40 hours in a work week. The regular rate includes not only an employee’s straight hourly pay, but also bonuses, shift differentials, and commissions. This rule seeks to clarify that a number of benefits are not included in the regular rate.

Bonuses

In Opinion Letter FLSA 2019-7, the DOL clarified the circumstances in which a bonus is considered non-discretionary and must be included in the calculation of employee’s regular rate of pay for overtime purposes. This is not a new regulation or interpretation, but merely clarification based on real life circumstances of when a quarterly or annual bonus may or may not be considered non-discretionary.

Permissible Rounding Practices

On July 1, 2019, DOL issued another opinion letter where it confirmed that a company’s payroll software, which used a formula for rounding off employee clock-in and clock-out times, properly compensated employees for all hours worked under the FLSA. The DOL determined that as long as the rounding practice is neutral and

MARIJUANA AND CBD OIL

While Wisconsin has not yet stepped into the field of legalizing medical or recreational marijuana, the number of states which have done so continues to increase on almost a monthly basis. Likewise, the use of cannabidiol (CBD) continues to increase. (CBD oil that has less than 0.3% THC is no longer




a controlled substance.) The employment problems that arise are when employees claim they are lawfully using marijuana outside of working hours in a state that has legalized marijuana, or they have used CBD oil and the employee tests positive for THC in a drug screening.

At present, employers can

continue to drug test for THC and take adverse employment action against an employee who tests positive, regardless of whether or not the employee actually appears impaired at work. Likewise, marijuana use is not protected under the ADA. (CBD oil over 0.3% THC is likely not protected either.) Employers in Wisconsin can maintain or implement a drug policy that prohibits the use of marijuana (THC). As with any policy, it should be clearly communicated to employees, including the consequences employers should consistently apply their policies. Employers will want to pay attention to this area as it is constantly evolving and developing.

does not result in an under payment of wages, it is permissible. For Wisconsin employers, state law only permits rounding up or down to a maximum of a seven-minute rounding period.

CONCLUSION

As the old saying goes, “may you live in interesting times.” While it can be debated whether that saying is a blessing or a curse, it certainly remains true that in the world of HR, we continue to live in interesting times. 



DACCO **MOBILE OFFICE**
SALES • RENTALS
WBE
Borrow our experience
... you can bet on it!
WELLS CARGO **800-236-8518**
WWW.DACCOTRAILERS.COM



THE ART OF ONBOARDING



EFFECTIVE ONBOARDING PAYS LONG-TERM DIVIDENDS

*By Nicole Frank, PHR, SHRM-CP —
Human Resources Manager, Dave Jones, Inc.*

In a continuing tight labor market and ongoing war for talent, it is important to ensure you are not cutting any corners in your onboarding processes with new employees. Just as the recruiting process is an opportunity to market your company to prospective employees, the proper onboarding of these new employees sets the tone for the culture of your company and begins the engagement process. Engaged employees stay and become productive members of your team and can even help you to recruit new talent. They can also

ENGAGED EMPLOYEES STAY AND BECOME PRODUCTIVE MEMBERS OF YOUR TEAM AND CAN EVEN HELP YOU TO RECRUIT NEW TALENT.

become voices that strongly support your company message. Onboarding employees properly gives you a head start with impacting retention. Many new employees will make the decision of staying with your company or leaving your company within the first 90 days of employment. What are you doing to impact that decision?

New employee onboarding should start as soon as your candidate accepts the position. It is vital that you establish a strong message to connect the new hire to your company. Throughout all your communications, be genuine. Remember your first



DING

day at work? Where do I park? How do I dress? What do I need to bring? Who do I ask for? These are just some of the questions that new hires can have on day one. Whether you have a formal new hire orientation process, or you start new hires working right away, it is important that you are providing clear and concise information and welcoming all new hires to your team. Set the tone. Never assume they will know what your expectations or practices are without telling them directly.

If your company has a mission, vision, and core values, connect your messaging to those as soon as possible and consistently carry that message throughout the employee lifecycle. This should be your branding and define who you are as an organization. The more this message is repeated – not only by you, but from everyone

they speak to – the more your employee base will begin to embody these words as their own and live the core values of your company.

How do you make their day one the best day and one that they will remember? Completing paperwork and making sure employees are compliant – while necessary – is not the way to make it one for the books and have your new hires go home and proclaim, “That was the best first day ever!” Whenever possible, look for ways for your new hires to complete the onboarding paperwork or compliance pieces prior to their orientation or first day on the job.

The focus of day one with a new employee should be engaging them in your processes and focusing on how to get them working and participating as soon as possible. Can information be emailed to them ahead of time to complete and bring with them to the orien-

YOUR NEW EMPLOYEE ONBOARDING SHOULD START AS SOON AS YOUR CANDIDATE ACCEPTS THE POSITION. IT IS VITAL THAT YOU ESTABLISH A STRONG MESSAGE TO CONNECT THE NEW HIRE TO YOUR COMPANY.

THE FOCUS OF DAY ONE WITH A NEW EMPLOYEE SHOULD BE ENGAGING THEM IN YOUR PROCESSES AND FOCUSING ON HOW TO GET THEM WORKING AND PARTICIPATING AS SOON AS POSSIBLE.

tation? Can they read your employee handbook or policies before coming in? Can you utilize an HRIS system to automate some of these processes? Always look for ways to simplify the steps that you are currently taking. Again, while it is necessary to complete these steps within onboarding, what are alternative and fresh ways to get this done? How can you accomplish necessary steps within onboarding in a different, sometimes more effective way and get the employee working and making an impact sooner? Be creative and personalize the process to fit your company culture and expectations.

The onboarding process should also allow new employees to meet with various people and make connections throughout the organization. Today, we are getting more work done through others and in a collaborative work environment. Connect new employees

to resources – both within your organization and outside – that can help him or her succeed; do this as soon as possible. As you think about your development from day one to today, think about who helped you throughout that journey. Very rarely has anyone walked that path alone. Look for mentors and ways to connect employees with mentors and buddies within your organization. Create connections for these new employees and make sure mentors understand the importance of their roles. Mentors can be people who have walked recently in that person's shoes, or someone who has been a proven teacher and developer of employees. Mentors hold very important roles within any organization and can help in the retention of employees. Make sure they understand their purpose, value, and the message they are accountable and empowered to support and grow with new employees. Internal mentors and buddies are



ABC | STEP
Associated Builders and Contractors

Make
SAFETY
a part of your
company's
DNA

Start your safety journey today. Visit step.abc.org.


HAVE A PLAN AND MAKE SURE THAT EVERYONE INVOLVED IN THE NEW HIRE PROCESS UNDERSTANDS THEIR ROLES AND THEIR RESPONSIBILITIES. THE SMALL THINGS CAN MAKE POWERFUL AND LASTING IMPRESSIONS.

a resource for new employees. They can be individuals who can provide answers to some of the simple questions new hires have. Perhaps more importantly, they can be there to take others under their wing and help them develop and succeed. They can also inspire them to do great things.

When you connect new employees with their purpose on day one and have them spend time with people throughout the organization, it can provide them with the knowledge they will need to be successful. Again, connect new employees with their purpose and ensure they understand their value and impact to your organization. As existing team members invest their time and knowledge in the new employee onboarding process, it helps support the message that new employees are valued and not seen as a burden. Be prepared for new hires to start and make sure people are prepared and engaged in those interactions. Ensure everyone involved is telling a consistent message and is an ideal messenger for your company.

Have a plan and make sure that everyone involved in the new hire process understands their roles and their responsibilities. The small things can make powerful and lasting impressions. When the new hire walks in the building for the first time, are they greeted with a smile and an understanding of who they are and why they are there? Is their workstation set up and ready for them (computer, e-mail, phone, and office supplies)? Are their business cards or desk name plate ready for them? Are all the tools needed to do their job ready and available for them? Confirm prior to the employee arriving for day one that everyone is on the same page and ready for the new employee. If there is a schedule of events, make sure people know when they are scheduled to start and end, and what message they are responsible for communicating. Be prepared and be professional. First impressions will set the tone and expectations for your company. It is important that you do it right as you do not get a second chance to make a first impression.

While first impressions are important to make, your commitment to new hires must extend beyond day one and continue into their employment. Again, as most new employees will be making decisions on their commitment to your organization within the first 90 days of employment, work to continue to engage and develop people in the early stages of their employment. The old school mentality of “no one trained me,” or “sink or swim” or “just throwing them into the fire” simply does not work in today’s employment environment. Have an onboarding or training plan for new hires to help them feel comfortable within their roles and make sure they are aware of the expectations of the respective positions. Provide them with the support and training tools needed to be successful and truly engage them with your company and their positions.

In today’s competitive job market, it is important to make sure that you commit yourself to helping people be successful within your organization. As you find wins in recruiting, make sure you are following the right steps to onboard employees to increase employee satisfaction, strengthen your company culture, and increase retention of employees. Remember, the small things can make a big difference. 

- READY MIX CONCRETE
- MASONRY MORTARS
- BUILDING PRODUCTS FOR THE CONCRETE AND MASONRY CONTRACTOR
- AGGREGATES FOR THE CONSTRUCTION INDUSTRY



LYCON INC. is a family owned supplier of ready mix concrete, masonry mortar and building materials serving Wisconsin. We are committed to providing quality products and services to our customers.



Concrete/Aggregate
800-955-7702 • 800-955-8758 • 866-575-1389
Mortar/Building Materials
877-599-5090

www.lyconinc.com

NEW MEMBERS

For membership information contact **Bill Stranberg**, Membership Director
Associated Builders & Contractors of Wisconsin – 608-244-5883

JULY 2019

• Advanced Plumbing Systems

Bob Kellogg
1416 Caledonia St.
La Crosse, WI 54603
Phone: (608) 796-9978
Description: Plumbing/Mechanical Contractor
Sponsor: Brian Wieser, Wieser Brothers General Contractor, Inc.
Beam Club Members-to-date: 43.5

• C & C Electric Service, Inc.

Cory Hendricks
3765 Creamery St., Suite #1
De Pere, WI 54115
Phone: (920) 660-9963
Description: Electrical Contractor
Sponsor: Bill Monfre, Quality Insulators, Inc.
Beam Club Members-to-date: 14

• Collins Plumbing, Inc.

Lee Collins
1301 S. Main St.
Alma, WI 54610
Phone: (608) 685-4030
Description: Plumbing/Mechanical Contractor
Sponsor: Brian Wieser, Wieser Brothers General Contractor, Inc.
Beam Club Members-to-date: 44.5

• Computers Nationwide

Mike Booth
120 N. Fraternity Lane
Whitewater, WI 53190
Phone: (262) 473-1064
Description: Computer Networks
Sponsor: Troy Windorff, Marco
Beam Club Members-to-date: 2

• J Krueger Investments DBA Jon Krueger Electric

Jon Krueger
N1276 County Road E
Redgranite, WI 54970
Phone: (920) 765-1417
Description: Electrical Contractor
Sponsor: Joel Sterk, SIA Insurance Services
Beam Club Members-to-date: 21.5

• Lion Tree Group

Ben Lindberg
4781 Hayes Road, Suite 102
Madison, WI 53704
Phone: (608) 445-5165
Description: Website Design

Sponsor: Scott Truehl, Friede & Associates, LLC
Beam Club Members-to-date: 11

• Luke Luedtke Electric

Luke Luedtke
380 S. Water St.
Lomira, WI 53048
Phone: (920) 979-4107
Description: Electrical Contractor
Sponsor: Ben Westra, W.D.S. Construction, Inc.
Beam Club Members-to-date: 2

• Marawood Construction Services, Inc.

Mitch Schindler
2025 W. Veterans Parkway
Marshfield, WI 54449
Phone: (715) 387-1256
Description: General Contractor
Sponsor: Jeff Graves, Staab Construction
Beam Club Members-to-date: 1

• Maz Electric

Phil Maxahreh
1924 14th Ave.
Monroe, WI 53566
Phone: (608) 558-9721
Description: Electrical Contractor
Sponsor: Steve Klessig, Keller, Inc.
Beam Club Members-to-date: 53

• Nicksic Electric

Joe Nicksic
P.O. Box 132
Baraboo, WI 53913
Phone: (608) 393-0558
Description: Electrical Contractor
Sponsor: Scott Truehl, Friede & Associates, LLC
Beam Club Members-to-date: 12

• South Shore Plumbing, LLC

Robert Gosline
4075 S. Clement Ave.
Milwaukee, WI 53207
Phone: (414) 881-7979
Description: Plumbing/Mechanical Contractor
Sponsor: Jay Zahn, R&R Insurance Services
Beam Club Members-to-date: 43

• Urban's Plumbing

Chris Urban
1703 Erin Lane
Waukesha, WI 53188
Phone: (262) 894-9695

Description: Plumbing/Mechanical Contractor

Sponsor: Jon Stueck, Nordic Plumbing
Beam Club Members-to-date: 2

• Winona Heating & Ventilating Company

Bernard Plachecki
374 E. 2nd St.
Winona, MN 55987
Phone: (507) 453-6364
Description: HVAC/Mechanical Contractor
Sponsor: Brian Wieser, Wieser Brothers General Contractor, Inc.
Beam Club Members-to-date: 45.5

• WTF Plumbing

Ronald Reiter
31215 70th St.
Salem, WI 53168
Phone: (262) 206-8596
Description: Plumbing/Mechanical Contractor
Sponsor: JR Reesman, Reesman's Excavating & Grading, Inc.
Beam Club Members-to-date: 21

AUGUST 2019

• BBS Electric, Inc.

Bob Bowar
8250 W. Mineral Point Road
Cross Plains, WI 53528
Phone: (608) 575-3304
Description: Electrical Contractor
Sponsor: Greg Jones, Dave Jones, Inc.
Beam Club Members-to-date: 19

• Bernhard Plumbing, Inc.

Scott Bernhard
604 Breckenridge St.
Mayville, WI 53050
Phone: (920) 387-3925
Description: Plumbing/Mechanical Contractor
Sponsor: Darren Muche, Town & Country Construction, Inc.
Beam Club Members-to-date: 1

• Dunkleberger Plumbing

Dan Dunkleberger
N1394 Schwemmer Lane
Fort Atkinson, WI 53538
Phone: (920) 728-5238
Description: Plumbing/Mechanical Contractor
Sponsor: Troy Carlson, McClone
Beam Club Members-to-date: 14

• Hurckman Mechanical

Khallie LeSage
P.O. Box 10977
Green Bay, WI 54307
Phone: (920) 371-1990
Description: Mechanical Contractor
Sponsor: Steve Klessig, Keller, Inc.
Beam Club Members-to-date: 54

• Jeff's Plumbing & Heating

Jeremy Hurst
6825 N. Francis Drive
Evansville, WI 53536
Phone: (608) 882-6495
Description: Plumbing/Mechanical Contractor
Sponsor: Kevin Day, Corporate Contractors Inc. (CCI)
Beam Club Members-to-date: 6

• K&C Air Systems Inc.

Corey Fanning
634 Commerce Drive., Unit J
Hudson, WI 54016
Phone: (715) 381-8402
Description: Mechanical Contractor
Sponsor: Dan Ross, Ross & Associates, Ltd.
Beam Club Members-to-date: 19

• Northern Plumbing

Chad Willms
1931 176th Ave.
Kenosha, WI 53144
Phone: (262) 308-4155
Description: Plumbing/Mechanical Contractor
Sponsor: Kevin Day, Corporate Contractors Inc. (CCI)
Beam Club Members-to-date: 7

• R & B Electric of Randolph, LLC

Randall Stobbe
148 Center St.
Randall, WI 53956
Phone: (920) 767-1469
Description: Electrical Contractor
Sponsor: Dan Bertler, Supreme Structures Inc.
Beam Club Members-to-date: 36

• Remy Battery

Jason Torres
4301 W. Lincoln Ave.
Milwaukee, WI 53219
Phone: (414) 384-0340
Description: Battery Supplier
Sponsor: JR Reesman, Reesman's Excavating & Grading, Inc.
Beam Club Members-to-date: 22

Built on Experience. Driven by Results.

R&R's Construction & Bonding Division is framed around experienced professionals who have dedicated their knowledge and careers to the industry.



CONSTRUCTION & BONDING
DIVISION

Brad Stehno

Commercial Account Exec.
262.953.7226

Jay Zahn

Bond Specialist
262.502.3829

Dan Scheider

Commercial Account Exec.
608.512.8174

Dan Maurer

Commercial Account Exec.
262.953.7213

myknowledgebroker.com/construction



Human Resources 2019

& ACCOUNTING CONFERENCE

OCTOBER
23-24

GLACIER CANYON CONFERENCE CENTER | WISCONSIN DELLS

CREATE A 5-STAR WORK
ENVIRONMENT

Be inspired by nationally recognized leadership development speaker Randy Goruk during Thursday's luncheon keynote

SHRM
SHRM-CP | SHRM-SCP
RECERTIFICATION
PROVIDER
2019

ABC of Wisconsin is recognized by SHRM to offer Professional Development Credits (PDCs) for the SHRM-CP® or SHRM-SCP®

The Active Shooter

Learn action steps and best practices to stay safe during an employee termination

Upgraded Accounting Lineup

Featuring six accounting sessions geared specifically for the construction industry

Human Resources Boot Camp

Get an overview of state and federal employment laws that all HR professionals need to know and dispel misconceptions

LEARN MORE AND REGISTER ONLINE

www.abcwi.org/HRConference