



# North Country Human Resources Association, Inc.

Society for Human Resource Management (SHRM) Affiliated Professional Chapter #0559

Serving North Country HR Managers since 1998

Website: <http://northcountryhra.org>

## Newsletter – March 2011

### 2010–2011 Board of Directors

- President** ..... Kathleen Scheible, PHR  
Credo Community Center  
788-1530 ext. 111  
[kathys@credocommunitycenter.com](mailto:kathys@credocommunitycenter.com)
- President-Elect** ..... Ross Wachowski  
Otis Technology, Inc.  
348-4300  
[rwachowski@otictec.com](mailto:rwachowski@otictec.com)
- Vice President** ..... Lisa Storey, PHR  
Samaritan Medical Center  
779-5085  
[lastorey@shsny.com](mailto:lastorey@shsny.com)
- Treasurer** ..... Cherie Moore  
Manpower, Inc.  
376-6899  
[cherie.moore@na.manpower.com](mailto:cherie.moore@na.manpower.com)
- Secretary** ..... Luanne VanBrocklin  
Car-Freshner Corp  
788-6250  
[lvanbrocklin@little-trees.com](mailto:lvanbrocklin@little-trees.com)
- Board Member** ..... Lisa Bowhall  
Kelly Services  
788-4345  
[bowhalm@kellyservices.com](mailto:bowhalm@kellyservices.com)
- Board Member** ..... April Fallon  
North Country Orthopaedic Group  
836-2168  
[afallon@ncortho.com](mailto:afallon@ncortho.com)
- Board Member** ..... Jeanette Hinkal, PHR  
Transitional Living Services of Northern New York  
782-1777 x18  
[jhinkal@tlsny.com](mailto:jhinkal@tlsny.com)
- Board Member** ..... Deborah Wilson  
North Country Library System  
315-782-5540  
[dwilson@ncls.org](mailto:dwilson@ncls.org)
- Immediate Past President** ..... Gilbert H. Pearsall, Jr.  
Johnson Newspaper Corp.  
782-1000 ext. 2318  
[gpearsall@wdt.net](mailto:gpearsall@wdt.net)

## What's in the March Newsletter

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# March Member's Meeting

**DATE:** Tuesday, March 15, 2011

**SITE:** Best Western, Watertown

**TIME:** 11:30 PM Social Networking  
11:45 PM Buffet opened  
12:00–1:00 PM Meeting Topic

**TOPIC:** Wage Theft Prevention Act (WTPA)  
**SPEAKER:** John T. McCann, Esq.  
Partner, Hancock & Estabrook, LLP

**MENU:** Lunch Buffet

**COST:** \$15.00 Paid Members  
\$17.00 Potential Members & Guests  
\$5.00 Non-Dining Members

**RSVP:** Cherie Moore – Treasurer  
[cherie.moore@na.manpower.com](mailto:cherie.moore@na.manpower.com)  
**by 4 PM Tuesday, March 8, 2011**



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

**March's Topic:** The NYS Wage Theft Prevention Act (WTPA) which goes into effect for all NYS employers on April 9, 2011. The presentation will cover:

- ✓ What the Act does
- ✓ Why it is needed
- ✓ How does it apply to employers in NYS
- ✓ Details of the Act and subsequent regulation

## **Cancellations:**

We will make every effort to cancel the RSVP if given reasonable notice of cancellation. If NCHRA is charged for the meal, then you are responsible to pay for the meal.

Name tags will be provided at the door to help every one get to know their fellow members. Please remember to return them before leaving.

## **Remember...**

- Bring your business cards with you to the monthly meetings to share and network with other members.
- At each meeting NCHRA Members can enter their business card in the door prize drawing for a free meal at the next meeting.
- The *"Sally Kafka Memorial Membership Drawing"* held in December 2011 awards a one year paid membership to the winner. Those members with perfect attendance at the monthly meetings (September 2010-December 2011) will be eligible for the drawing.



# Message From The President

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I have a number of things to share with you this month, but first I want to recognize that it's March already which means spring is almost here! I know that we've had our bouts with snow and cold but overall it doesn't seem that it's been all that bad. I have to keep in mind that we have a month or more to go yet before we can say that winter is officially over, but that will fly by fast! There's a good chance by the time I'm writing for the next newsletter that we'll see crocuses popping up....and that will be a welcome site for all! So hang in there if you're not a winter person!

OK....down to business.... as we're planning the NCHRA annual conference for June 7 we've been having discussions with potential speakers. In my conversations with the NYS DOL I was asked to pass along the names of some new legislation. There is a new Hospitality Wage Order that has consolidated a variety of laws that affected hotels and restaurants. The DOL felt confident in stating that the majority of businesses in this field are in violation of this new law, hence my urgency in getting you this information. Construction companies should be looking at the new Fair Play Act...another one that they said most were not aware of. Please check out the DOL web page for more information on these. Next is the new Wage Theft Prevention Act effective April 9, 2011. Our March meeting topic is on the Wage Theft Prevention Act. Although the rules and regulations that determine how it will be implemented and enforced have not been shared by the DOL yet, you will learn what the law states and some ways you can start preparing for it. Please note that is a topic change from our original schedule. We felt it important to get this topic in front of you in a timely manner.

As a follow up to the DOL conversations, we may be considering a 3 hour seminar in early summer on the new laws. The last DOL presentation to our group was in March of 2010. That seminar was VERY informative and prompted many HR professionals to review their agency's practices for compliance. We will keep you apprised of any plans for their updated seminar.

Plans for the June conference are coming along well. Our theme this year is "2011- The Year of Compliance". We're trying a new approach for the afternoon session by having a panel of guests from different professions speak to your questions regarding compliance. This will enable the participants to actively engage the panelists in topics that are of interest to them or their agency/company. More information will be included with the conference registration material that will be going out soon. We're continuing to look for members to help on the conference planning committee. Our next meeting will directly follow the March 15 general meeting. Won't you join us?

Attend the March 15 meeting and get informed on the Wage Theft Prevention Act. It affects everyone! Be sure to RSVP to Cherie by 4 pm on Tuesday, March 8 at [cherie.moore@na.manpower.com](mailto:cherie.moore@na.manpower.com)



Kathleen Scheible, PHR  
President,  
North Country Human Resources Association, Inc.

**SAVE THE DATE**  
**JUNE 2011 Conference**

**SAVE THE DATE**

The North Country Human Resource Association of Jefferson and Lewis Counties will be hosting their 5th annual HR Conference on June 7, 2011 at the Dulles State Office Building in Watertown, NY.

Our 2010 Conference was sponsored by Hancock & Estabrook of Syracuse, NY and included 9 vendors and hosted 3 speakers.

Hancock & Estabrook will once again sponsor the event for 2011.

Since our first conference in 2007 our total attendees have increased from over 70 our first year to nearly 90 in 2010. We anticipate record numbers this year with **COMPLIANCE** as the theme!

**JUNE CONFERENCE**  
**PLANNING COMMITTEE MEETING**  
**Following the March 15 General meeting**  
**at the Best Western**  
**COME JOIN US**

## 2011 Meeting Dates (through June)

April – June 2011 meeting dates for your calendar. All meetings will be held at the Watertown Best Western.

### Meeting dates

Tuesday, April 26, 2011 (breakfast)

Tuesday, May 24, 2011 (breakfast)

Tuesday, June 7, 2011 (at State Office Building)

### Topics

Affirmative Action

New Employee Processing and Files

5th Annual NCHRA Conference

## 2010-2011 NCHRA Membership

We have changed the fiscal year for the NCHRA to coincide with the calendar starting in 2011. The 2010-2011 membership year runs from September 2010 to December 2011. Annual membership dues are payable to NCHRA and mailed to:

NCHRA  
PO Box 8302  
Watertown NY 13601

A one-year professional membership is \$35 and two-year is \$60.

A one-year associate membership is \$20 and two-year is \$35.

**Remember: there is a meal price difference for members and non- members so it's to your advantage to get your membership in early!**

### Types of memberships:

**PROFESSIONAL MEMBERSHIP:** Professional Members shall be limited to (a) those individuals engaged in Human Resources or Industrial Relations functions; (b) the teaching, administration or management of Human Resources; (c) individuals who previously served in those positions.

**ASSOCIATE MEMBERSHIP:** Individuals who do not meet the qualifications of the other classes of membership, but who demonstrate a bona fide interest in human resource management and the mission of the Chapter. Associate members may not vote or hold office in the Chapter.

**STUDENT MEMBERSHIP:** Individuals who are actively enrolled in Human Resources or related programs at the college or University level. Student members may not vote and may not hold office in the Association. Student members shall be entitled to full membership without the payment of dues.

# North Country Human Resources Association Inc.

P.O. Box 8302, Watertown, NY 13601

Society for Human Resource Management (SHRM) Affiliated Professional Chapter #0559

Serving the North Country HR Managers since 1988.

## MEMBERSHIP APPLICATION FOR 2010-2011



Web Address: <http://northcountryhra.org/>

Professional Member Dues: \$35.00 one year – non refundable if approved - due with your application.

\$60.00 two years – non refundable if approved -due with your application.

Associate Member Dues: \$20.00 one year – non refundable if approved - due with your application.

\$35.00 two years – non refundable if approved - due with your application.

**Membership in NCHRA is contingent upon approval of Board of Directors.**

**Applicants will receive notification of membership decision.**

Name: \_\_\_\_\_ (Membership is individual-not transferable)

Home Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Company Web Site: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Title: \_\_\_\_\_

Function(s): \_\_\_\_\_

Renewal Membership  New Membership

Are you a SHRM member? Yes No

Do you have a certification? SPHR PHR GPHR \_\_\_\_\_ How long have you been a SHRM member? \_\_\_\_\_ How

did you hear about the NCHRA? \_\_\_\_\_

### Internal Use Only

Application / Payment submitted on:

Type of Membership: Professional  Associate  Student  Honorary

Membership expires: 2011  2012

Form of Payment: Personal Check  Business Check  Cash

Date Board approved:

Date Notification sent:

# HR One HR eNews – Jury Duty

## HR eNews- your connection to HR solutions!



### *Did You Know...*

New York State employees must generally be paid for the first three days of jury duty?

New York State regulation requires employers with ten or more employees to pay workers \$40 per day for the first three days of jury duty service. This requirement applies only if the employee is scheduled to work for the employer on any of these three days. Your organization's jury duty policy should address if employees will be paid beyond the three days required by state regulation.

In addition to state regulation, the federal Fair Labor Standards Act (FLSA) requires that exempt employees be paid their full salaries when they are on jury duty for any partial workweeks. Payment of an exempt employee's salary is not required if the employee is on jury duty for the entire workweek and does not perform any work for the employer.

This HR eNews is not intended to render legal advice but is meant for general informational purposes only.

**If you have questions, contact HR One's Human Resource Hot Line at 1.800.457.8829.**

## New N.Y. 'wage theft' law imposes stiff penalties on employers

Late last year, Gov. David Paterson signed the Wage Theft Prevention Act, a law designed to end what workers' rights advocates term "wage theft."

Wage theft includes wage underpayment, failure to pay the minimum wage, requiring workers to work "off the clock," pilfering tips and misclassifying workers.

The new law has teeth. It expands the New York Department of Labor's enforcement powers, and as much as quadruples penalties on employers that violate the law.

The wage theft law takes effect April 12, but the time to plan is now.

### Notice requirements

The new law expands employers' notification and reporting requirements. It requires employers to add additional information to the envelopes bearing employees' W-2 statements of the previous year's earnings.

By Feb. 1 of each year, employers must provide a written notice to each employee spelling out his or her pay rate, basis of pay rate, how the employee will be paid (for example, by the hour, shift, week or, in the case of salaried employees, the year), any allowances claimed as part of the minimum wage, the regular pay day and "such other information as the commissioner deems material and necessary."

A similar notice must be provided to each new hire. If there's a change in an employee's pay or other terms included on the notice, the employer must notify the employee in writing within seven days.

Employers must provide this documentation in both English and in the employee's primary language.

Employers must maintain accurate records for six years.

The law imposes a \$50 fine—per employee—for each workweek in which a violation occurs, plus costs and reasonable attorneys' fees.

If a wronged employee files a complaint, damages are capped at \$2,500. There's no damages cap if the Labor Commissioner files the complaint.

### Wage statements

Regular pay envelopes will be a little heavier, too. The new law requires employers to provide employees with a detailed wage statement with every paycheck.

Required information includes, among other things:

- The dates of work covered by that payment
- The pay rate
- The pay basis—by the hour, shift, week or yearly salary
- Any allowances claimed as part of the minimum wage.

For nonexempt employees, employers must also provide the employee's regular hourly rate, overtime rate, the number of regular hours worked and the number of overtime hours worked.

Employers face stiff penalties for violating this part of the law as well.

Either the employee or the Labor Commissioner may seek damages of \$100 per week for each week the violation occurs, plus costs and attorneys' fees. Like the annual/new hire notification, damages are capped at \$2,500 for employee-filed actions, with no cap on actions brought by the Commissioner.

### Liquidated damages

Potentially, the new law's most costly provision deals with liquidated damages.

Previously, an employee who prevailed in a court action alleging failure to pay wages could receive the total amount of the underpayment, costs, attorneys' fees and, in some instances, liquidated damages equal to 25% of the underpayment.

The new law raises the ante. It now permits a prevailing employee

to recover payment of all wages due, costs, attorneys' fees, prejudgment interest—plus liquidated damages equal to 100% of the total wages due. The only way employers can avoid liquidated damages is to prove it made the mistake in good faith.

That's right, the burden of proof is on the employer—meaning the employer is guilty until proven innocent.

### Anti-retaliation protection

The law makes several key changes to the New York Labor Law's anti-retaliation protections, such as requiring any person found to have engaged in unlawful retaliation to pay liquidated damages of up to \$10,000, along with costs and attorneys' fees. In addition, retaliation is now listed as a Class B misdemeanor.

That means retaliating employers will now have criminal records if they're convicted.

While the act does not take effect until April 12, employers should begin reviewing their payroll practices to determine what they will have to change to comply with the new notice and wage statement requirements.

### Prepare now

Before the new law takes effect, take the following steps:

- Start assembling the information needed for the notices.
- Make sure your payroll software complies with the new law.
- Make sure all independent contractors you work with are prepared to comply with the law.
- Determine if employees are properly classified under the Fair Labor Standards Act.
- Change new-hire material to include the required notifications.

Many of the law's changes reinforce what employers should already be doing. Nevertheless, the law signals a new era of increased enforcement and tougher penalties.

# BSK 2010-2011 Breakfast Series

## 2010-2011 HR Breakfast Series

The Breakfast Series Seminars, co-sponsored by BS&K and MACNY, are designed to address current, important issues and provides updates and insight on a variety of important HR topics.

All Syracuse presentations will take place at MACNY headquarters (see below). Please see reverse for dates and location of our "On The Road HR Series" in Utica.

**October 19, 2010**

### **Wage/Hour Update: State and Federal DOL Crackdown and Class Action Issues – Do You Have Exposure?**

- DOL Enforcement Initiatives; Review of Enforcement Positions and Opinion Letters and Regulatory Updates
- Deductions from Wages; Meal Periods; Hiring Documentation; and Other State Law Issues
- Class Action Developments
- Equal Pay Act & Potential Amendments to FLSA – Pending legislative and regulatory developments
- Hiring Incentives – how to qualify and practical concerns

**November 16, 2010**

### **FMLA and ADA Update: Handling Delicate Medical Issues with Employees**

- FMLA Medical Certification Challenges and Solutions
- Intermittent Leave Issues
- ADA – Reasonable Accommodations & the Interactive Process
- Difficult Accommodation Issues
- FMLA and ADA Overlap – additional time off as accommodation and other issues

**March 15, 2011**

### **Social Media/Networking – Dangers and Opportunities**

- How to Use Social Networking to Screen Applicants and Avoid Litigation
- Legal Pitfalls to be Avoided in the Monitoring and Managing of Employee Use of Social Media
- Developing an Effective Social Media Policy

**April 19, 2011**

### **What *all* Employers Need to Know About the NLRB: How new board appointments, rulings and legislative developments are effecting both unionized and non-unionized employers alike.**

- The "New" Board – How Changes in Membership Have Influenced the Law
- NLRB Decisions and Impact on Organizing
- NLRB Decisions and Impact on Unionized Employers
- Legislative Developments – Status of EFCA and Other Initiatives
- Preparing for Union Organizing
- Best Practices for Unionized Employers

HRCI Recertification Credit: These programs have been submitted to the HR Certification Institute.

Registration and Breakfast: 7:30 a.m. to 8:00 a.m.; Program: 8:00 a.m. to 9:30 a.m.

Briefings held at MACNY Headquarters, One Webster's Landing, Syracuse, NY

Cost for each HR Breakfast Series Session is \$25 for BS&K Clients and MACNY Members  
\$35 for Non-Clients and Non-Members (includes breakfast and handouts)

(Make checks payable to MACNY)

See reverse side for registration information.



**BOND, SCHOENECK & KING, PLLC**  
ATTORNEYS AT LAW • NEW YORK FLORIDA KANSAS



# Fax-Back Registration Form

Fax your registration to Bill at MACNY: Fax 315-474-0524; Phone 315-474-4201, ext. 16

Please indicate if you are a  BS&K Client or  MACNY Member

Participant \_\_\_\_\_ Contact Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Seminar \_\_\_\_\_ Date \_\_\_\_\_

Seminar \_\_\_\_\_ Date \_\_\_\_\_

Seminar \_\_\_\_\_ Date \_\_\_\_\_

Seminar \_\_\_\_\_ Date \_\_\_\_\_

If you are unable to honor your registration, please provide 48 hour cancellation notification.  
Otherwise, we will be charged by the venue and have to pass along the cost to you.