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Northern Utah Human Resources Association (NUHRA) • Color Country Human Resources Association (CCHRA)
Bridgerland Society for Human Management*

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JOB BIAS CLAIMS ON THE RISE: The Equal Employment Opportunity Commission (“EEOC”) reports that job bias claims filed with the agency rose 9% in 2007, and retaliation claims rose 18%, both to the highest levels in five years. The EEOC received 82,792 charges last year, most of these charges alleging discrimination based on race (37% of all 2007 charges), sex (30% of all 2007 charges) or retaliation (32%). For the first time in agency history, retaliation claims were more numerous than sex bias claims. Other types of claims also increased significantly: age bias (up 15%); disability bias (up 14%) national origin bias (up 12%); religion bias (up 13%). Only equal pay claims declined in number. The EEOC reports it collected about \$350 million for job bias victims in 2007. Lots of employment bias claims out there these days.

\$2 MILLION SETTLEMENT: Speaking of race bias claims, the EEOC has announced that a Texas aviation company has agreed to pay \$2 million to settle allegations of racial harassment. The EEOC asserted that employees at the company were subjected to racial slurs, graffiti, cartoons and hangman’s nooses. Lots of expensive employment bias claims out there these days.

UTAH LEGISLATURE UPDATE: The Utah Legislature has finished its 2008 session. Despite considering many pieces of legislation involving employment issues, the Legislature really only approved one bill that will impact employers significantly. S.S.B. 81 (full text available at <http://le.utah.gov/~2008/bills/sbille/sb0081.htm>) attempts to address a broad range of issues related to illegal immigration, including some employment issues. First, it requires public employers to register with and use a Status Verification System (i.e. the federal E-Verify system) to verify the federal authorization status of a new employee. Second, beginning July 1,

2009, it provides that a public employer may not enter into a contract for the physical performance of services within the state with a contractor unless the contractor registers and participates in the Status Verification System to verify the work eligibility status of the contractor's new employees. Third, also beginning in 2009, it provides that it is unlawful for an employer to knowingly or recklessly discharge a lawful employee while retaining an unauthorized alien in the same job category who assumes the job duties. Finally, the new law makes it a misdemeanor crime for a person to conceal, harbor, or shelter from detection an alien in Utah for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the United States in violation of federal law.

SEVEN DEADLY SUPERVISOR STATEMENTS: HR Advisor has compiled the following intriguing list of seven supervisor statements that most likely to lead to lawsuits: “(1) I think you’re depressed...shouldn’t you see somebody?”; “(2) You’re going to take five weeks off to ‘bond’? I don’t think so.”; “(3) You’re giving 2 weeks’ notice? Why don’t we just make today you’re last day. You’re fired!”; “(4) Are you married, and what are your plans for a family?”; “(5) Oh, what a lovely accent – where are you from?”; “(6) Do you really want to transfer to a job that has so much travel with those young children?”; “(7) You’re fired, and I don’t have to give you any reason because employment is ‘at will’.” To this list, I would add one more, paraphrased from an old Beatles song- “I wanna hold your hand (or other body part).”

MORE ON THE FEDERAL LEGISLATIVE FRONT: The United States House of Representatives has passed the Paul Wellstone Health and Addiction Equity Act ((H.R. 1424). Among other things, the bill mandates out-of-network coverage and imposes a broad mental health benefit mandate that preempts state laws and requires employers to cover all conditions in the DSM- Diagnostic and Statistical Manual of Mental Disorders (which national SHRM says includes caffeine addiction or sibling rivalry). The Senate will now consider the bill. The Senate is also considering S 910, which requires any employer with 15 or more employees to provide paid sick leave to full and part time employees and mandates its use to care for any blood relative of the employee. Another Senate bill, S 2419, requires employers with 15 or more employees to discuss flexible scheduling options within 14 days of an employee's request for such a schedule. Stay tuned for developments.

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Legal-mail is a legal and legislative update service sent out about twice a month to various Utah SHRM members and chapters. As a courtesy to SHRM, the Utah law firm of Jones Waldo Holbrook & McDonough P.C. underwrites the costs of the service. If you have any questions or comments, please contact Michael Patrick O'Brien.

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