



November 2012 Newsletter

November Meeting-

**Revised date
for November
only!!**

Tuesday

November 20th

Pintail Room

\$12.00

11:30am — 1:00pm

Networking will begin at 11:30 a.m. and the program will start at noon. We will eat from the buffet.

**For reservations,
contact**

Amy Smith at

Amy.Smith@delmonte.com

or 256-552-7470

or fax 256-552-7429.

**We want to make
sure we have plenty
of room for every-
one.**

**Please RSVP by noon
Monday,
November 19th.**



November Legislative Meeting Tuesday, November 20th Featuring Congressman Mo Brooks

On November 2, 2010, Congressman Mo Brooks (R-AL) was elected to the U.S. House of Representatives. He represents the Fifth Congressional District of Alabama, proudly serving the people of North Alabama and working on two important committees: Armed Services, and Science, Space, and Technology. He is the Chairman of the Science, Space, and Technology Subcommittee on Research and Science Education.

As a freshman member, Congressman Brooks is highly active and engaged in representing the interests of the 5th District. Brooks supports America's missile defense technologies; he introduced successful legislation last year that blocked the White House from sharing classified missile technologies with Russia. The same amendment is expected to be included in the National Defense Authorization Act for FY2013. Rep. Brooks is also a vocal opponent of sequestration, voting against the Budget Control Act and calling upon Administration officials to account for the consequences of sequestration in a HASC Strategic Forces Subcommittee hearing on April 18, 2012.

Last year, Brooks founded and became co-chairman of the Army Aviation Caucus, a forum in which Members of Congress, staff, and Army leadership raise awareness for Army Aviation and seek to affect legislative priorities. The Caucus now includes more than 40 members and is one of the most active caucuses on Capitol Hill.

Rep. Brooks graduated from Grissom High School in 1972. He graduated from Duke University in three years with a double major in political science and economics, with highest honors in economics. In 1978, he graduated from the University of Alabama Law School.

After graduation, Rep. Brooks worked as a prosecutor in the Tuscaloosa District Attorney's office, where he built a solid "tough-on-crime" reputation. Rep. Brooks left the Tuscaloosa District Attorney's office in 1980 to return to Huntsville as a law clerk for presiding Circuit Court Judge John David Snodgrass. In 1982, Brooks was elected to the Alabama House of Representatives and became one of 11 Republican legislators (out of 140 total) and the only elected Republican legislator north of Birmingham.

Brooks was reelected to the Alabama House in 1983, 1986, and 1990. While in the legislature, he was elected Republican House Caucus Chairman three times and was ranked number one (out of 140 legislators) by the Alabama Taxpayers' Defense Fund in the fight to protect family incomes from higher taxes. He was also ranked in the top 20 percent by Alabama Alliance of Business & Industry on pro-jobs, tort reform, and free enterprise issues and was recognized as one of the legislature's most effective legislators by Alabama Magazine.

In 1991, Brooks was appointed Madison County District Attorney. In 1996, he ran for the Madison County Commission and unseated an eight-year incumbent Republican. He was reelected to the Commission in 2000, 2004, and 2008. During every year except when he was serving as a prosecutor or court clerk, Brooks held a second job in private practice. In 1995-1996, he was appointed Special Assistant Attorney General for then Attorney General Jeff Sessions and, from 1996-2002, was appointed Special Assistant Attorney General for then Attorney General Bill Pryor.

Expanding Anti-Retaliation Provisions to Employee Benefit Issues

courtesy of Lehr, Middlebrooks & Vreeland, P.C.

We know all too well that “retaliation” is the most rapidly expanding employment claim and has been for the past three years. The case of *George v. Junior Achievement of Central Indiana, Inc.* (7th Cir. September 4, 2012) further expands the field of retaliation claims by including retaliation as an outcome of an employee inquiry about benefits.

The Employee Retirement Income Security Act (“ERISA”) in Section 510 prohibits retaliation “*against any person because he is given information or has testified or is about to testify in any inquiry or proceeding*” involving benefits covered under ERISA. One would think that “testify” and “inquiry or proceeding” would exclude questions arising at the workplace, but that was not the opinion of the court in the *George* case. George was Vice President of Junior Achievement of Central Indiana until his termination in January 2010. During the summer of 2009, George raised a question about deductions that were made from his pay which were supposed to be deposited into his retirement account and health savings account, but were deposited in neither.

Approximately three months later, Junior Achievement issued George checks for what had been deducted and not deposited. Between October 2009 and January 2010, George discussed with Junior Achievement’s board of directors various approaches to consider for his retirement. They did not reach an agreement, and George was notified on January 4, 2010 that he was terminated. George sued under ERISA, and the district court, agreeing with Junior Achievement, granted summary judgment stating that George’s question about his retirement account was neither an “inquiry” nor a “proceeding” as defined under ERISA. In vacating the summary judgment decision, the court noted other circuit courts that ruled that “inquiry” and “proceeding” “applies to unsolicited informal complaints. When dealing with this ambiguous anti-retaliation provision, we are supposed to resolve the ambiguity in favor of protecting employees.” The court stated that, “Inquiry could mean something official, such as the investigation that the Department of Labor conducts before deciding whether to file suit under ERISA, but sometimes an inquiry means nothing more than a question.”

Perhaps the most critical factor in evaluating the risk of a retaliation claim is the timing of an adverse decision in relation to when an employee raised a protected issue. Thus, employers should just process benefits inquiries as one more factor to consider regarding the timing for a potential retaliation claim. Employees who raise questions about benefits, pay, discrimination, harassment, safety or any other matter protected under state or federal law are not immune from the consequences of accountability for their attitude, attendance, performance or behavior. However, employers need to be sure that the closer in time the adverse decision is made in relation to when the employee engaged in protected activities, the greater the clarity must be that the decision would have been made regardless of that protected activity.

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Welcome New Members!!

Please welcome the following new TVC-SHRM Members:

- Matthew Miller-Quantum Research
- Rhonda Dawson-student
- Jada George-ITW Sexton

If you know an HR professional in the area that might be interested in joining our chapter, please RSVP that you will be bringing a guest with you to the meeting. The first meeting's meal is free for all guests, and it is a great way to introduce potential members to our group.



TVC-SHRM 2013 Membership Renewal Forms

Please note that all current TVC-SHRM members will receive a membership renewal form via e-mail. Please complete and return this form as soon as possible along with your membership dues for next year.

Save the Date! Upcoming Events

- **November 14th**-BSHRM Monthly meeting featuring Keynote speaker Lily Ledbetter- please go to www.bshrm.org for more information.
- **November 15th-17th**—2012 SHRM Leadership Conference -Washington, DC.
- **December 12th**-TVC-SHRM Holiday Lunch at Ruby Tuesday at 11:30am. Invitations will be sent out in December along with your December newsletter. **June 16-19 (2013)**—2013 SHRM National Conference in Chicago—reserve your early bird rate and housing now! <http://annual.shrm.org/>
- **Every 1st Wednesday**-Workforce Coalition meeting at The Chamber of Commerce (Contact Mary Ila Ward at miw@mceda.org for more info)

In lieu of our normal meeting in December, we will have our annual Holiday Party. This year's party will be held at Ruby Tuesday in Decatur in the box car room. TVC-SHRM will cover the cost of everyone's lunch; however, we ask that all attendees bring a \$5 donation to the SHRM Foundation. All attendees should also bring a "Dirty Santa" gift valued at \$10.

Hope to see everyone there!



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