

May Newsletter

June Meeting

Wednesday,
 June 11th

Decatur Country Club

\$15.00

11:45 am — 1:00 pm

Networking will begin at 11:15 a.m. and the program will start at 11:45 a.m.

If you **RSVP** that you are coming and then you don't attend, you will still be charged for the meal.

For reservations, contact

Patti Fowler at

pfowler@alliancehrservices.com



2014 SHRM Annual Conference and Exposition



What: 2014 SHRM Conference and Exposition

When: June 22-25, 2014

Where: Orange County Convention Center, Orlando, FL

Who: Keynote speakers include:

1. **Robin Roberts**, Co-anchor, ABC's "Good Morning America"
2. **Laura Bush**, Former first lady
3. **Tom Friedman**, New York Times columnist and Pulitzer Prize-winning author
4. **David Novak**, Chairman and CEO, Yum! Brands, Inc.

With entertainment by Tim McGraw

For more information go to annual.shrm.org

Registration	Registration Dates	SHRM Member Pricing	Non-Member Pricing
Standard	Now- May 30	\$1,545	\$1,975
Late	After May 30	\$1,680	\$2,110

One Day Rates	Monday	Tuesday	Wednesday
SHRM Member	\$680	\$680	\$630
Non-Member	\$955	\$955	\$905

2014 SHRM Annual Conference & Exposition

Saturday June 21, 2014	Sunday June 22, 2014	Monday June 23, 2014	Tuesday June 24, 2014	Wednesday June 25, 2014
SHRM Seminar Series* 8:00 a.m. - 6:00 p.m.	SHRM Seminar Series* 8:00 a.m. - 1:30 p.m.	Concurrent Sessions 7:00 a.m. - 8:15 a.m.	Concurrent Sessions 7:00 a.m. - 8:15 a.m.	General Session featuring Mrs. Laura Bush 8:30 a.m. - 9:45 a.m.
Executive Education* 8:00 a.m. - 5:30 p.m.	One- and Two-Part Workshops* 8:00 a.m. - Noon	General Session featuring Tom Friedman 8:30 a.m. - 9:45 a.m.	General Session featuring David Novak 8:30 a.m. - 9:45 a.m.	Concurrent Sessions 10:00 a.m. - 11:15 a.m.
One- and Two-Part Workshops* 1:00 p.m. - 5:00 p.m.	Executive Education* 8:00 a.m. - 12:15 p.m.	SHRM Exposition 9:30 a.m. - 4:00 p.m.	SHRM Exposition 9:30 a.m. - 2:00 p.m.	Concurrent Sessions 11:30 a.m. - 12:45 p.m.
	Attendee Orientation 11:00 a.m. - Noon	Masters Series featuring Americus Reed, II 10:30 a.m. - 12:15 p.m.	Concurrent Sessions 10:45 a.m. - Noon	Concurrent Concludes 12:45 p.m.
	Super Sunday Sessions 12:30 p.m. - 2:00 p.m.	Concurrent Sessions 10:45 a.m. - Noon	Lunch in the SHRM Exposition Noon - 1:30 p.m.	
	Opening General Session 2:30 p.m. - 4:00 p.m.	Lunch in the SHRM Exposition Noon - 1:30 p.m.	SHRM Seminar Series* 1:30 p.m. - 5:30 p.m.	
	Grand Opening Reception in the SHRM Exposition 4:00 p.m. - 7:00 p.m.	Executive Education* 1:15 p.m. - 5:30 p.m.	Masters Series featuring Jonah Berger 2:15 p.m. - 4:15 p.m.	
		SHRM Seminar Series* 1:30 p.m. - 5:30 p.m.	Concurrent Sessions 2:15 p.m. - 3:30 p.m.	
		Masters Series featuring Olivia Fox Cabane 1:45 p.m. - 3:45 p.m.	Concurrent Sessions 4:00 p.m. - 5:15 p.m.	
		Concurrent Sessions 2:00 p.m. - 3:15 p.m.	Tuesday Night Show 8:00 p.m.	
		Refreshment Break in the SHRM Exposition 3:15 p.m. - 4:00 p.m.		
		Concurrent Sessions 4:00 p.m. - 5:15 p.m.		

* Pre-registration required.

Court Weighs in on Overweight Employee's Termination

Courtesy of Lehr Middlebrooks & Vreeland, P.C.

An ongoing question employers consider is to what extent an overweight employee is protected from discrimination under the Americans with Disabilities Act. The court in *Powell v. Gentiva Health Servs., Inc.* (S.D. Ala., Feb. 12, 2014) provides employers with guidance in this area.

Gina Powell was 5 feet 3 inches tall and weighed 230 pounds. She was employed as an outside sales representative on November 1, 2010. Gentiva provides hospice services and Powell's responsibilities were to develop business through soliciting doctors, hospitals and assisted living facilities.

Powell's supervisor became concerned that Powell was failing to meet monthly sales targets and was not documenting her sales calls, which Powell attributed to a problem with the company's IT system. However, the supervisor discovered that Powell failed to contact the company's IT resources for support. In October 2011, Powell was presented with a corrective action form regarding her performance issues. The supervisor counseled Powell about her clothing, which included wearing a headband with feathers. Powell's response was that "My clothing choices are cute. I've put on weight recently, so I've been trying to dress cuter." Powell said to her supervisor that "Not everybody can be as little as you." The supervisor responded with comments about Powell's attire, and added that "We're not even going to discuss the weight issue." That was the only comment made to Powell about her weight.

When Powell failed to improve, she was terminated in November 2011 and claimed that she was terminated because her employer "regarded her" as disabled under the Americans with Disabilities Act Amendments Act. The court granted summary judgment for Gentiva, holding that no evidence was presented to suggest that the company considered Powell's weight a physiological or psychological impairment. The court stated "That Gentiva may have believed its customers did not want to buy hospice services from an overweight salesperson is no more a perception of an impairment than a belief that customers do not want to buy hospice services from a salesperson with a brightly colored, rebellious hairstyle." In addressing the supervisor's comment about the "weight issue," the court stated that her comment was a "singular stray, ambiguous remark" that did not show that Powell's weight was a pretext for her termination.

The court also ruled that Powell failed to establish that she was disabled within the definition of the ADA. Powell testified that she never received a medical diagnosis of obesity or morbid obesity, and she also testified that her obesity did not interfere with her ability to perform her job functions. When asked whether her weight affected her ability to do her job at Gentiva, Powell testified, "Absolutely not." Accordingly, the court stated that "No reasonable factfinder could conclude that Powell's obesity substantially limited one or more of her major life activities so as to render her 'disabled' within the meaning of...the ADA."

Is the EEOC Pursuing Social Media Issues?

Courtesy of Lehr Middlebrooks & Vreeland, P.C.

We know all too well that for the past four years the NLRB has been infatuated with applying the National Labor Relations Act to employees and employee use of social media. During a meeting on March 12, 2014, the EEOC suggested that it may follow the NLRB's lead about social media implications regarding fair employment practice statutes.

The meeting was an open forum. Employers explained that employee social media posts may be relevant to employer workplace decisions. For example, an employee who posts pictures on Facebook of himself dancing the night away on the same day he used FMLA for back pain may find himself the subject of a reasonable employee investigation. Likewise, Facebook posts may also be relevant to employers in determining whether an employee engaged in inappropriate or potential harassing activity.

The EEOC asked how the Commission can communicate with employers to distinguish between employee private life behavior and employee behavior away from work that is relevant to the workplace. Charging Parties and plaintiffs in employment discrimination cases often are "shocked" to find out that their social media posts become relevant evidence in defending a discrimination charge, according to comments from plaintiffs' attorneys.

The five commissioners of the EEOC are conflicted about what, if anything, to do regarding social media. EEOC Chair Jacqueline Berrien suggested that social media is simply a form for raising issues the EEOC has dealt with throughout its existence. Commissioner Yang suggested that there should be principles or procedures established between what is considered public and private information that employees post. She added that "Simply filing a discrimination complaint doesn't seem to me to be waiving your social media privacy rights."

Welcome the Newest TVC-SHRM Member

- **Simone Tabb**, HR Manager, Aleris

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tweave@ascendmaterials.com

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Amanda.tidwell@npcoinc.com

Thank you to everyone who came out to the Spring Social. We raised \$175 for SHRM Foundation!



Save the Date! Upcoming Events

- **May 20, 2014 5:00—9:00 pm**
Creating Performance Success: A Hands-On Workshop Call 256-425-8787 or email Chris@ad4group.com for more information.
- **June 22-25th**
SHRM 2014 Annual Conference in Orlando, FL. Go to shrm.org for more information and to register for the event.
- **September 10, 2014**
TVC-SHRM Fall Workshop at the Garden Plaza Inn (More details coming soon)
- **Every 1st Wednesday**
Workforce Coalition meeting at The Chamber of Commerce
 (Contact Taylor Simmons- taylor@dcc.org for more info)

Please contact Tiffany Weaver at tweave@ascendmaterials.com if you have an upcoming event that you would like to add.

Our June meeting will be held on Wednesday, June 11, 2014 at the Decatur Country Club.

Hope to see everyone there!



Tennessee Valley Chapter SHRM
 PO Box 1271
 Decatur, AL 35602
www.tvcshrm.org