

PHILADELPHIA SHRM NEWS

Official Publication of the Philadelphia SHRM Chapter

February 2009

Q&A with Philip A. Miscimarra, Morgan Lewis, Partner, Labor and Employment Practice

What are the main workforce management challenges employers face in the economic downturn?

Difficult times present a triple threat of challenges for most employers: (1) legal liability: poorly planned or executed changes can result in significant legal claims and liability, which may defeat the business goals underlying workforce reductions, wage or benefit changes, or other initiatives; (2) limited resources: a troubled economy causes significant financial and resource constraints within companies—workarounds cannot be easily or quickly implemented; (3) who should leave and who should stay: there are good reasons to devote attention to individuals whom you may have to let go, but it is equally important to focus

on those whom you want to remain—the people who will be responsible for addressing present challenges and future business needs.

For employers managing a reduction in force, what is the biggest mistake human resources executives can make?

Many employers confronting difficult times must reduce the size of their workforce. In every case, the goals to be accomplished by a reduction in force (RIF) must be clearly understood, and human resources leadership is essential to help employers determine which 1.) employees and 2.) resources are needed to accomplish the company's business needs in the future. This

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UPCOMING EVENTS JANUARY FEBRUARY MARCH

PROFESSIONAL DEVELOPMENT SERIES
Employee Relations, Legislative Issues and HR Compliance
Friday, 01/30/09, 7:30am-11:30am
Loews Philadelphia Hotel
1200 Market Street
Philadelphia, PA 19107

CAREER MANAGEMENT
Work Life Balance: The Care and Feeding of the HR Professional
Thursday, 02/19/09, 5:30pm-7:30pm
Comcast, One Comcast Center,
1701 JFK Boulevard, 41st Floor
Philadelphia, PA 19103

WEBCAST
Workforce Planning
Friday, 02/20/09, 12:00pm-1:00pm
Microsoft Live Meeting

WEBCAST
PREP and Employing Ex-offenders in Philadelphia
Friday, 03/06/09, 12:00pm-1:00pm
Microsoft Live Meeting

WEBCAST
Legal Updates
Friday, 03/20/09, 12:00pm-1:00pm
Microsoft Live Meeting

PROFESSIONAL DEVELOPMENT SERIES
Recruiting, Retention and Succession Planning
Wednesday, 03/25/09
7:30am-11:30am
Loews Philadelphia Hotel
1200 Market Street
Philadelphia, PA 19107

To register, log on to
<http://www.phillyshrm.org>



The PRESIDENT'S CORNER



WHAT IS POSSIBLE FOR YOU IN 2009?

We begin 2009 with conditions and circumstances that are pointing in a direction we wish were different. I'm talking about layoffs, plant closings, asking people to do more with less, levels of uncertainty that are stressful at best. Not to mention the normal challenges you face in getting

for our approach in times of challenge. To remember that "Success isn't permanent, and failure isn't fatal." All of these 'mantras' are useful no doubt in us not losing our heads in the face of all the bad news and hard things we have to do right now. However, I rather like the pragmatic advice from Larry Bossidy, Chairman and former CEO of Honeywell International, when he says in his book Execution to approach being effective in a particular way: "Effectiveness is a function of how well people respond to the realities they have." History is full of people who confirm that it is not what happens that determines our futures but rather what we do and how we respond to what happens.

business done everyday! Now, more than ever, companies need their people to do their very best and employees need to be able to deliver their best contribution. So, as a professional executing the human factor in your business, what can YOU do to impact having people do their very best? What do your people need now in times like these?

I'm not talking about positive thinking here, I am proposing that what provides value and gives people what they need to do their very best is to actually get yourself and them to stand in the face of 'the storm' and 1. Be clear about the realities you are dealing with, WITHOUT adding further spin, and 2. Responding powerfully to the realities without writing off the future. In fact, if you look at the quotes above again, you will see that the authors' many challenges led to substantial and bright futures for them and many, many people over time.

A great resource is to consider what other leaders have said about what one needs to be productive, effective and successful in troubled times. For example, Sir Winston Churchill (1874-1965) offered "Success is the ability to go from one failure to another with no loss of enthusiasm." Abraham Lincoln (1809-1865) said to "Always bear in mind that your own resolution to succeed is more important than any one thing." Joseph P. Kennedy (1888-1969), the father of (U.S.) President John F. Kennedy said, "When the going gets tough, the tough get going." Mike Ditka (1939-) Chicago Bears Coach for 11 years and one of the only two people to win Super Bowls as a player, an assistant coach and a head coach offered us a lighter perspective

So, what do you say? With the New Year, we possess a new opportunity to define the way our organizations respond and the direction they head in 2009.

Ashley Tappan
Chapter President 2008-2009
Philadelphia SHRM

Emerging HR Leaders Group

Spare a few hours for an evening of networking, bowling and fun!

Philadelphia SHRM is forming a group of professionals, new or recent to the HR field (0-5 years of experience and senior college students) to share learning, insights and support. In these economic times it is more important than ever to meet new people and build a network for future opportunities. Join this progressive group at our first event.

Location:

North Bowl
909 N 2nd Street
Philadelphia, PA 19123
<http://www.northbowlphilly.com>

Date: **Thursday, April 23, 6pm - 9pm**
Cost: **\$25** (includes food, drinks and bowling)

SPECIAL: AT THIS EVENT ONLY PHILADELPHIA SHRM IS OFFERING ALL NON-MEMBERS 10% OFF A SHRM MEMBERSHIP IF YOU DESIGNATE PHILADELPHIA SHRM!

Contact us at info@phillyshrm.org to learn more or ask one of the board members at the event! Credit cards and checks are accepted.

Register at www.phillyshrm.org



Great Leader Series:

Developing Your Leadership Talent

Build your success in 2009 with lessons learned in this dynamic and entertaining leadership series.

Presented by:



Session 1: Fast Track Your Talent Development
Wednesday, February 11, 2009
8 a.m. to noon
William Penn Inn, Gwynedd, PA

Session 2: The Strengths and Styles of Successful Leaders
Wednesday, March 18, 2009
1 to 5 p.m.
Indian Valley Country Club, Telford, PA

Session 3: Who Am I? Personality, Gender, and Generation Make a Difference
Thursday, April 30, 2009
8 a.m. to 4:30 p.m.
Normandy Farm Hotel & Conference Center, Blue Bell, PA

For workshop descriptions and pricing, visit khrsolutions.com/greatleaders.html
Learn more about your instructors: sagemanagementconsulting.com
khrsolutions.com

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Q&A with Philip A. Miscimarra

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requires a concrete assessment of the existing employee population, required cost reductions (if any), and what post-RIF structure best serves the company's prospective business objectives. There is enormous variation among the types of RIFs, their underlying causes, and their business objectives. However, most RIFs will be effective only if employers pay particular attention to important issues early on in the process and have a strategic plan in place that includes litigation and potential legal liability risk management.

What accommodations must be made for a unionized workforce during a RIF?

Special care is required for RIFs involving unionized operations. In some cases, employers cannot make final restructuring decisions unless unions have first been given notice and bargaining opportunities, which may take weeks or months to complete. Antiunion discrimination claims and grievances can take years to resolve. If these issues are mishandled, the consequences are often severe, potentially including significant financial liability, the potential reinstatement of affected employees, and discontinued business operations. Although union presence in the private sector has dropped in recent years, there are formidable RIF-related risks for companies that disregard union obligations.

Are there effective alternatives to a RIF?

Even when a RIF appears expedient, many employers will benefit by implementing alternatives to involuntary employment terminations. These alternatives can be less costly and avoid lowered employee morale and the risk of legal claims and potential liability. Potential alternatives include hour reductions and work sharing, overtime restrictions, hiring freezes, the elimination of contract employees, and exit incentive and voluntary separation programs, among others. Voluntary separation and exit incentive programs involve yet additional decisions, including (among many others) what benefits will be offered as an exit incentive (e.g., severance pay, pension enhancements), whether everybody can participate in the program, and whether eligible employees will participate in the program completely at their own election.

Times Are (Still) Good—What Do You Do?

The best time to address RIF issues is when there is no imminent need for a workforce reduction. As many companies have experienced, implementing RIFs without effective preparation can limit the resulting cost savings, give rise to RIF-related liabilities, and increase the RIF's negative impact on the business, or worse. Companies experiencing favorable business conditions should address a number of important issues that are more difficult to deal with in the context of a downturn:

1. Performance Management. Although RIFs may involve the separation of employees who are strong contributors, they frequently highlight a failure to effectively manage performance, absenteeism, and productivity problems. Performance evaluations can pose particular problems in subsequent RIF-related litigation, where the evaluations may appear to contradict the reasons why certain employees have been selected for inclusion in the RIF.



Philip A. Miscimarra is a partner in Morgan Lewis's Labor and Employment Practice in the Chicago office. Mr. Miscimarra represents clients on a wide range of labor and employment issues, with a focus on traditional labor matters and employment litigation. He also co-chairs Morgan Lewis/Workforce Change, the practice

within Morgan Lewis that is devoted to the management of all employment, labor, benefits, and related issues arising from mergers, acquisitions, startups, workforce reductions, and other types of business restructuring.

Mr. Miscimarra is a senior fellow at the University of Pennsylvania's Wharton Business School, and is managing director of the Wharton Center for Human Resources Research Advisory Group. Mr. Miscimarra will be the keynote speaker at the January 30, 2009 Professional Development Series event at the Loew's Hotel, Philadelphia, PA. [Click here for more information and to register](#)

2. Benefit Plans. Good times provide the opportunity to ensure that all aspects of corporate benefit plans are up to date, including retirement plans, severance pay plans, potential early retirement incentives, ERISA filings, and other requirements.

3. Waivers/Releases and Restrictive Covenants. In recent years the validity of waiver and release agreements based on the standards and requirements set forth in OWBPA has been among the most highly litigated issues resulting from workforce reductions. Especially challenging is the need, in situations involving group exit incentive or employment termination programs, to provide accurate position and age data for all employees (selected and not selected) in the relevant "decisional unit." Employers should review waiver and release agreements under OWBPA when business conditions are favorable and not when there is an urgent need for a broad-based workforce reduction. Intellectual property should be protected by confidentiality, no-solicitation, or noncompete agreements when employees are hired or when there are no immediate RIF plans, especially in states that have found severance pay to be insufficient consideration for such restrictive covenants.

4. Be Prepared. Recent events have demonstrated the speed with which business fortunes can change. This makes it all the more important for employers to carefully preserve their discretion and flexibility to make employment changes that could be essential during a business downturn. This is especially relevant in unionized work settings where collective bargaining agreements can impose restrictions on subcontracting, relocations, and RIFs. Effective RIF planning should take place long before the need for workforce change becomes urgent.

Thank you Mr. Miscimarra, it has been a pleasure speaking with you. We look forward to your keynote presentation "Managing HR Challenges and Risks in a Troubled Economy," at our Chapter's Professional Development Series event on Friday, January 30.



9th Annual
Delaware Valley

HR PERSON of the Year AWARD

Developed in 2001 to celebrate the Human Resources industry and to recognize those in the HR profession who exemplify outstanding achievement within our local human resources community.

**Tuesday,
May 12, 2009
5:30 - 9:00 p.m.
Radisson Valley
Forge Hotel**

Recognize your peers ... Nominate a qualified HR professional

The Delaware Valley HR Person of the Year Award Committee seeks candidates who represent “the best” in the human resources management profession. This highly prestigious award recognizes creative approaches and consistently high performance that benefits an organization. We share the belief that human resource professionals play a critical role in determining the strategic direction of organizations.

Who is eligible?

- Any practitioner, consultant, generalist or a functional specialist who is a member of National SHRM and/or a Delaware Valley Regional SHRM Chapter.
- Any practitioner, consultant, generalist or a functional specialist who has not been nominated as HR Person of the Year in the past three years.
- Any practitioner, consultant, generalist or a functional specialist who has not won HR Person of the Year in any category in the past five years.
- An individual who has demonstrated excellence either by creative and innovative development of new ideas and programs or by the highly effective utilization of well-regarded principles in the human resources area. Specific achievements may be related to a project or an ongoing activity.
- Ideal candidates will have a minimum of two years service with their current employer.

Deadline is Feb. 20, 2009

Visit www.HRPersonAward.org to nominate today!

In today's troubled economy, business decisions can often change like the wind. Knowing what keeps your Board of Directors, CEOs, COOs and CFOs -- and employee's -- awake at night is paramount. Now more than ever you must be on high alert, ready to respond to issues directly impacting the business of HR including:

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DON'T DELAY. MAKE SURE YOU HAVE THIS INFORMATION ON HAND BEFORE YOU ARE ASKED ABOUT IT WHEN PREPARING FOR 2009.



Ten Tips for HR in Surviving the Economic Downturn

By Karen A. Hart, Senior Vice President, Bernard Hodes Group

The current state of the economy is worrisome to everyone. Each day seems to bring a plethora of new headlines, new layoff reports and dire predictions for the future. Now is the time for HR to lead, to be part of the discussion, and to prove its value to each organization. Here are a few tips to help you do that.

1. Strategize, strategize, strategize

Robust and meticulous planning and strategies will help keep you and your staff focused on the big picture and the mission. Clarity of purpose will be the hallmark of a successful HR department.

2. Anticipate and plan for possible downsizing

Be realistic. Look at your business (including potential growth and contraction), be part of the management team in anticipating possible downsizing, and have a plan for what that would mean in terms of position control, buyouts and early retirements, and reassignments. HR needs to have a seat at the table.

3. Metrics and Reporting

Use metrics to validate your strategies and their effectiveness. Demonstrate your team's success in sourcing and selecting great employees. Develop clear reporting and make sure those with a need to know see what a great job you are doing.

4. Process

Now is the time to carefully scrutinize your recruitment process, making sure it is candidate friendly and part of the solution, not the problem. Key hires will still be part of the equation, even in down times.

5. Team responsibilities

Now, more than ever, examine what your team members are doing and ensure that the responsibilities make sense and enable the team to be proactive, effective and accountable.

6. Be prepared to cut

Whether that be budget cuts, programs, media, resources or staff, reductions may be necessary. Plan proactively so that these reductions have minimal effect on your department, your staff and your services.

7. Pay attention to your customers

Work closely with your internal customers, both those you have hired and hiring managers, to ensure your department is proactive, tuned in and switched on to their needs. Recognize your external customers, the applicants, with superior customer service and seamless response.

8. Communicate, communicate, communicate

The economy is worrisome to everyone. Make sure you are clear and realistic with your staff and your employees. Reassure, but be realistic. Listen, listen, listen. Put on all your HR hats-counselor, friend, cheerleader, leader, advocate and be there for your team and your employees.

9. Retention will become even more crucial

Now is the time to keep your intellectual capital, and retain those invaluable employees who can be most productive. Company efficiency and output depend on those who can be the most nimble in moving objectives forward. Even in economic downturns, your top performers can move and will if no effort is made to keep them.

10. Foster training and career pathing

Be mindful of knowledge transfer and its importance to your organization's viability. Use mentors, provide clear career paths and enhance intergenerational communication and learning. Orientation, onboarding and continued learning opportunities will continue to be important.

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BE A MENTOR!

As Human Resources professionals, on a daily basis we all see how important role models and mentors can be in the life of a young professional or those in transition. Mentors are important at every stage of our professional and personal lives. For over the past few years, the Philadelphia Society for Human Resources Management Chapter has been successfully connecting seasoned professionals with young professionals, people who relocated to the area or those making a career transition. Consider starting the new year developing a new professional relationship. Becoming a mentor or mentee is easy and it is only a 6 month commitment. It is a great way to get involved and meet people.

Check out

http://www.phillyshrm.org/career_center/mentor_application.htm
today for more information.





Philadelphia SHRM Professional Development Series

Employee Relations, Legislative Issues and HR Compliance Friday, January 30, 2009 7:30am-11:30am

Loews Philadelphia Hotel
1200 Market Street
Philadelphia, PA 19107

Three dynamic sessions include:

- **Are You Prepared? Significant Changes in Labor and Employment Legislation Have Arrived for 2009**
Facilitators: Sarah Bouchard, Partner, Morgan Lewis, Philadelphia, Jonathan Fritts, Partner, Morgan Lewis, Washington, D.C., Joseph Ragaglia, Partner, Morgan Lewis, Philadelphia
- **Communicating to Your Workforce: HR Compliance and Employee Relations**
Facilitators: David Bowman, Partner, Morgan Lewis, Philadelphia, Joseph Ragaglia, Partner, Morgan Lewis, Philadelphia
- **Managing Workforce Change in the Global Financial Crisis**
Kenote Speaker: Philip Miscimarra, Partner, Morgan Lewis, Chicago
Senior Fellow at the Wharton Center for Human Resources

To attend register online at www.phillyshrm.org

WELCOME NEW MEMBERS!

- Annette Abbate, Gamesa Technology Corporation Inc.
- Megan Ace, Harrah's Chester Casino and Racetrack
- Karen Alfonsi, PM Solutions
- Kirsten Andersen, FLP
- Mary Balkus, VertMarkets
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- George Binck, Procacci Brothers Sales Corporation
- Joanne Bintliff-Ritchie, DoubleStar Inc
- Jennifer Bombardier, AAA Mid-Atlantic
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- Carmela Brucocoleri, Siemens
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- Shannon Burgess, White and Williams LLP
- Cynthia Bush, Flagship Credit Corporation
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- Stephen Deiningner, Independent Contractor
- Stefanie Denoncour, Almac
- James Devine, MidAtlantic Employers Association
- Frank DiBernardino, Vienna Human Capital Advisors, LLC
- Karen Dugger, Fox Chase Cancer Center
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- Melody Evans
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- Tonya Trent, Stapeley In Germantown
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Human Resources Opportunities

Check out recent HR opportunities posted on Philadelphia SHRMs web site. For details go to www.phillyshrm.org



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Nearly 100 HR professionals from the greater Philadelphia area attended Philadelphia SHRM's Career Management Forum on January 21st at the Pyramid Club. A panel of HR professionals from Executive Search, Talent Acquisition and Career Transition fields provided insight into what firms are seeking from effective HR professionals and how to position yourself in today's volatile employment market.