



Finding Value in Your Membership

The Rochester Business Alliance understands its members' concerns over the cost of doing business in Rochester, particularly in the current economy.

We recognize the economy puts pressure on businesses to evaluate each and every expense. So we're working tirelessly to deliver on our mission statement: To create value for our members by delivering important business services and by advocating for an environment essential for their success.

We appreciate your willingness to invest in the RBA, the regional chamber of commerce through membership. And we want you to know that the dollars you spend not only benefit your business, but also the entire community through the products and services we provide as well as through our public advocacy.

Whether you're a new or longtime RBA member, consider attending a membership orientation, an interactive hour in which we share the variety of ways we help our member companies and their employees get and stay connected to the community. Click here to register for our next session, set for Oct. 5 at our downtown offices.

In the meantime, here's a quick refresher:

- We're advocating at the local, state and

federal levels for changes that will bring down the cost of doing business in New York state and create a more business friendly climate. Unshackle Upstate gives our members a voice in Albany. And our Conversations With series (see Page 7), gives them face-time with some of our area Congressional delegation. Even if you don't actively participate in our advocacy, the ability to count you as a member strengthens the voice of business in our community. (Turn to Page 2 to read about the latest efforts RBA President and CEO Sandy Parker is leading on our members' behalf.)

- Keeping up with technology and trends can be time consuming as well as expensive – especially for smaller companies. Our training services – which include coaching, custom training, computer course and seminars – are priced to fit your budget. Members receive a 25-percent discount on training. (To see upcoming courses, turn to Page 12.)
- Our human resource support services are also a great value. Our team of experts compiles vital benchmarking information through member surveys covering wage, salary, benefits and HR practices. And they share the latest information through the HR Helpline,

forums and publications, as well as the complimentary Friday Business Briefings.

- Networking events such as Business After Hours and Meet the Top 100, as well as opportunities to interact with our five affiliate groups, offer our members a way to connect with other businesses. Two upcoming events to put on your calendar: Speed Networking on Sept. 22 and Business After Hours on Oct. 5.

How can you stay on top of all RBA has to offer? Through our News and Events e-mails, Chamber News, and regular postings on our website and social media such as Twitter. RBA's LinkedIn group lets you network online with other RBA members. And you can post your company's news on our Facebook page, as well as view information on upcoming events, photos from past events, and more. (Click on the icons on Page 2 to follow the RBA on these various sites.)

We believe the Rochester Business Alliance has a lot to offer its members, particularly during challenging economic times. But the best way to learn that value is through experience. So take time today to sign up for an event, register for a training session, "like" us on Facebook. Your business will benefit. ★

Mark Your Calendar...

Our next Business After Hours networking event is at Harris Beach PLLC, one of the nation's top law firms. 5-7 p.m. Oct. 5

We're taking Coffee with Our CEO on the road to Eastman Business Park 8-9 a.m. Oct. 18

For more events, visit us online at www.RochesterBusinessAlliance.com

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*This newsletter is the official newsletter
of Rochester Business Alliance, published at
150 State St., Rochester, NY 14614.
Articles printed are for information only and are
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Follow us on...



From the President and CEO

There is a saying: You get out of life what you put into it. Those words hold true whether you're talking about your personal relationships, your chosen profession, even your Rochester Business Alliance membership.

That saying is particularly true right now as it pertains to your role as a citizen of Rochester and New York state. 2011 could prove to be a turning point for our region, particularly our economy. And the final few months of this year offer a variety of ways you can - and should - take part in helping shape Greater Rochester's future.

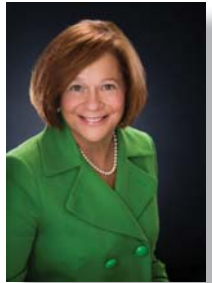
As I write this, the work of the Finger Lakes Regional Economic Development Council is well underway.

This council, one of 10 formed statewide, is made up of business and community leaders from across the nine-county region, and is at the center of the new public-private partnership between state government and the community. These groups, comprised of local experts from business, academia, local government, and other organizations, are charged with drafting a strategic plan for economic development that capitalizes and maximizes their regions' strengths and unique assets. Each of the 10 groups will submit its plan by November, and the best plan will win the lion's share of state economic development aid. The ultimate goal: creating jobs and boosting our economy.

As you can see, much is at stake. The Finger Lakes committee (of which I am a member) is co-chaired by Wegmans CEO Danny Wegman and University of Rochester President Joel Seligman. So while the program is in good hands, the council cannot do this work alone. The governor's office recognized this, which is why they called for the process to include significant public engagement. Last month, three public sessions were held across the region - one each in Batavia, Geneva and Rochester, seeking input and ideas. If you didn't get a chance to attend any of those sessions, three more are to be scheduled in October. Watch for the announcements. I encourage you to at least go and listen and get informed on this important work.

We at RBA also want to know what's going

on in your world and how we can better support your success. That's why we established our Coffee With the CEO program six years ago, to give you a chance to meet with me and my team to share your experiences and ideas.



Sandy Parker

On Oct. 18, we're launching a kicked-up version of that program, inviting you to join us at Eastman Business Park for a discussion. We're hoping for a crowd, and an insightful discussion, with our members doing most of the talking. The topic: Where should RBA and the Rochester region focus its economic development efforts in the coming year? Click here for more information or to register for this event.

There's one other very important way you can get involved. On Nov. 8, you can go to the polls and vote. On the ballot this year are the Monroe County executive, district attorney, some seats on the city school board and city council, along with all 29 Monroe County Legislature seats. Between now and then, we hope you'll take the opportunity to learn as much as you can about the candidates and their positions on key issues, so that on Nov. 8, you'll be ready to cast your ballot.

One place to get that information is from the RBA's Committee for a Strong Economy, our political action committee. Each year, we interview candidates in key races and make endorsements. Our goal: identifying and supporting candidates dedicated to the economic well-being of our community and supportive of RBA member interests. You can learn more about the PAC in the Public Policy Corner article in this newsletter, on page 7.

Meanwhile, we hope you enjoy the rest of your summer and the beginning of fall, which are typically beautiful times of the year here in Rochester. Maybe you'll even join us at one of our fall gala events, like the Rochester Top 100, which will mark its 25th anniversary with a dinner at the Rochester Convention Center on Nov. 3. It's sure to be a great event. ★

Sandy Parker

2011 Meet the Top 100 Tours Wrap Up

We wrapped up the 2011 Meet the Top 100 series touring Palmer Food Services last month, giving our members an inside look at the public storefront and an up-close look at their internal operations. Palmer was one of six Rochester Top 100 companies we toured this year – including Excelsus Solutions, Regional Computer Recycling & Recovery, Retrotech, TOPTICA, and SPS Medical Supply Corp.

Once again, all tours this year were filled to capacity with both familiar and new faces. While there are many members who frequent most RBA networking events, we get an equally diverse crowd of members who are either new to our events or have a specific interest in a company that we're touring. Some companies, such as Reflexite Precision Technology Center, even use the tours for employee development.

"They [Reflexite employees] have enjoyed learning about the companies they have toured and networking with a people from different companies that attended the tour," said Teri Edom of Reflexite.

Each tour has been unique and memorable, many opening their doors to visitors for the first time. During the last five years, we've gone behind the scenes at nearly 30 companies that have made the Top 100 list – covering the construction, manufacturing,



Excelsus Solutions



RCR&R



Retrotech



SPS Medical Supply



TOPTICA



Palmer Food Services

retail, service, technology, and wholesale/distribution industries.

Next month we celebrate the 2011 Rochester Top 100 companies with a 25th Dinner Gala and we hope to extend the celebration through the year with a brand new lineup of companies to tour. If your company has secured a spot on this year's list and would like to host a tour, please contact Ellen Rosen at (585) 256-4616. ★

New Member Profile: The Upstate Bank

We welcomed new member company The Upstate Bank in August and had a moment to get acquainted with Lyn Matteson, vice president and senior lending officer to learn more about the business.

Q: Tell us about your company.

A: The Upstate National Bank is a nationally-chartered community bank headquartered in Rochester, with 25 employees. We focus on providing a safe and secure environment for clients to transact, invest and borrow while simultaneously enabling and enhancing community prosperity and growth in the markets we proudly serve. Founded in 1922, our bank's specialty is servicing borrowing needs of small- and medium-sized businesses, entrepreneurs and professionals. Our products and services are tailored to our clientele.

Q: What prompted you to join the RBA?

A: The RBA is an excellent partnership for our bank and will allow our team to network with many local businesses. As a small bank, we operate as any small business does, and our affiliation with RBA will strengthen our knowledge of local challenges and opportunities in the business environment we serve.

Q: What business/economic challenges are you currently facing as a small business?

A: The interest rate environment is very difficult for banks to operate in. Growing loans and deposits in a highly price sensitive market is a challenge that requires continuous improvement in both delivery and service for our customers and prospects. Success depends even more today on key relationships that have been built over time.

Q: What is your business outlook for 2011?

A: We are cautiously optimistic that the markets will strengthen through year-end. Businesses will enjoy historically low borrowing rates, with no increases in the foreseeable future. ★



25TH ANNUAL
ROCHESTER TOP 100 AWARDS
DINNER GALA
THURSDAY, NOVEMBER 3

This year's dinner gala will be held at the Rochester Riverside Convention Center.
Tickets are \$135 per person or \$1,100 for a table of 10.

We look forward to celebrating with you!

To purchase tickets, visit our website via the Events Calendar at www.RochesterBusinessAlliance.com

Member Spotlight: Harris Seeds

By Kevin Donahue
Director of
Membership and
Business Development



About Harris Seeds

Harris Seeds, part of the Rochester community since 1879, evolved from the efforts of Joseph Harris, an English immigrant who settled in the region in the 1850's and became extremely successful in the selection of superior strains of vegetables and grains. The company became widely popular because of his basic business philosophy – "offer my customers a quality product at a fair price and they will return."

Harris Seeds was managed by Harris family members for 100 years. With no Harris family members to continue the business, the company was sold to a large corporation in 1979. It found its way back into private ownership in 1987 and continues today under the guidance of long time Harris employees. Currently led by president Richard Chamberlin, Harris Seeds employs 42 employees and brings on approximately 50 additional seasonal employees each year.

Harris Seeds markets vegetable and flower seeds, plants and growing supplies

to gardeners and professional growers throughout the United States.

"We are a seed company and function primarily behind the scenes," Chamberlin said. "We have customers in every state, where most of the business is transacted via mail order, over the phone and on the web. For those customers that were loyal to the Harris Garden Centers, orders still can be placed via our web site."

What's New at Harris Seeds

Harris Seeds recently purchased Ken-Bar, a small manufacturing company in Boston that produces greenhouse tubing and slitted row covers for vegetable growers. In 2010, Harris Seeds became the exclusive distributor in the Northeast for Worm Power, a certified organic fertilizer.

Challenges

"We are a labor-intensive business with over 90 full time, part time and seasonal employees. In order to sustain acceptable profit levels that are affected yearly by rising operating costs, we must continually prospect for new customers. Our agenda for our customers remains much as it was in 1879, to provide the finest products available and at a fair price, coupled with friendly and courteous service,"



(from l to r) Jennifer Hemingway, Joseph DeWandler, and Richard Chamberlin

Chamberlin said.

Rochester Business Alliance Member

Harris Seeds has been an RBA member for two years. "Our initial reason for joining was to take advantage of some of the discounts on training. We have remained a member because we have found benefit in the HR hotline and the other community events that are offered. We participated in the *Eat Well, Live Well* Challenge this year and our employees had a great time with that event. Overall, we feel that RBA has united the small business community and given us a place to turn for answers," said Jennifer Hemingway, HR manager. ★

Contact Info

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Rochester, NY 14624
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www.harriseseeds.com

The Rochester Business Alliance welcomes its new members

Brand Specialties

Buffalo Sabres

Cayuga Home for Children

E S Systems, Inc.

Envision Productions

Euler Hermes

Express Press

Living Communities, LLC

Lucid Inc.

Mutual of Omaha

Next Generation Communications

PR Communications, Inc.

REACT E-Cycling Inc.

Robert F. Hyland & Sons, LLC

Speedpro Imaging

Tasteful Additions

The Upstate Bank



Speed Networking

5—7 p.m. Sept. 22

Don't let the idea of networking intimidate you. Speed networking offers a twist on the typical meet-and-greet, an organized succession of brief conversations among participants that allows you to talk briefly with 20 or more people over the course of the evening.

Register online at
www.RochesterBusinessAlliance.com

The Rochester Business Alliance offers a variety of networking events each month. Below are some of the highlights from July and August. For more photos, visit our Facebook page (listed under pages as Rochester Business Alliance).

Meet the Top 100: SPS Medical July 13



Charles Hughes, director of education at SPS Medical, demonstrates some of the technology used for sterilization monitoring and testing.

Meet the Top 100: Palmer Foods August 10



We stopped at Palmer Foods for our last tour of the season. Here, Jack Whittier, CFO of Palmer Foods, leads the group through the warehouse.

Business After Hours: Eagle Vale Golf Club August 17



Delmonize Smith of D.A. Smith and Associates (center) found a quiet spot to network with other guests at this summer event.

Partner Networking Event with the Amerks, Sabres - August 31



100 Partner members joined us for lunch at the Blue Cross Arena to meet Ted Black, president of the Amerks and Sabres.

Upcoming Affiliate Events

The Rochester Business Alliance is made up of employers big and small, in just about every industry imaginable. While our programs and events are designed for all, we recognize that there are times when employers and employees want to be among a smaller group that shares their specific business issues. Here are some of our affiliates' upcoming events:

Greater Rochester Quality Council

[Click here to go to their website.](#)

Small Business Council of Rochester

- Boot Camp: Getting a Grip on Time - Sept. 14
- Golf Scramble at Bristol Harbor - Sept. 15
- Boot Camp: Turning Ideas Into Action - Oct. 12
- Small Business Person of the Year Gala - Oct. 19

[Click here to go to their website.](#)

Rochester Hispanic Business Association

- Annual Gala Luncheon and Expo - Sept. 29

[Click here to go to their website.](#)

Transportation Council

- Annual Clambake - Sept. 14
- 2011 Fall Golf Outing - Oct. 6

[Click here to go to their website.](#)

Women's Council

[Click here to go to their website.](#)

Through our affiliate groups, you can meet business people who share your interests and challenges. For more information, [click here.](#)

RHBA Gala Set for Sept. 29

Emeterio "Pete" Otero, executive dean of Monroe Community College's Damon City Campus will be honored Sept. 29 as the 2011 Hispanic Business Person of the Year.

Grace Tillinghast, chairwoman of the Rochester Hispanic Business Association, called Otero "a superb role model" who has enhanced the Hispanic community through his involvement in a variety of organizations, including the Rochester Downtown Development Corporation, United Way of Greater Rochester, Ibero American Action League, YMCA of Greater Rochester, Action for Better Community and Rochester Rotary Club.

A native of Puerto Rico, Otero came to the

United States with his parents when he was 3. At 17, he dropped out of high school to join the Army. He completed his GED during his three-year service and returned to Buffalo to work at Bethlehem Steel. In 1968, he moved to Rochester, and worked on the production line at Bausch & Lomb.

Otero, who holds a Ph.D. in higher education from the SUNY Buffalo, a master's in counselor education from the State College at Brockport and a bachelor's degree in psychology and Spanish from St. John Fisher College, joined MCC in 1982 and has served in several roles.

For information on the Sept. 29 event, contact Michele Hefferon at (585) 256-4614. ★

Ask SCORE
Counselors to America's Small Business

Motivate Your Employees

As an entrepreneur, you appreciate that employees are a vital resource for your small business. They offer your business various skills and talents, helping to add value to your products or services. The business cannot succeed without their full support.

It's important to have direct contact to make your message clear. Some owners try to save time and manage by email. That works only to a point. Direct contact builds trust and rapport.

Establish your business "mantra" and keep repeating it. Don't assume that everyone involved in the business understands and buys into the mission as you do. After all, you're the one who created it, not them. They haven't lived and breathed every detail as you have.

Here's one simple step to make certain you communicate clearly: Instead of asking if an employee understood your instructions, ask what specific steps the person will take to complete the task. That way you can be absolutely certain he or she not only understood, but also plans to complete the assignment in an appropriate way.

Avoid constantly criticizing employees. That hurts morale and can make people less motivated. If you highlight the positive and correct mistakes without getting personal, employees are more likely to deliver what you want.

While a good manager is also visible, it's important to not make it appear that you are micromanaging. A quick chat about work and non-work issues during a stroll through your business is all the positive reinforcement that most employees need. Employee will feel more comfortable about coming to you with questions, concerns, or suggestions. Augment the informality with individual and group meetings to share information and updates, brainstorm ideas, and simply get to know each other. Such interaction will not only help re-energize your staff, but the boss as well!

To learn more about best practices for human resource management, contact SCORE Rochester. Seasoned, volunteer business counselors stand ready to provide free, confidential business counseling to small business owners. To schedule a SCORE consultation at the RBA, call (585) 244-1800. ★

Voice Your Choice on Election Day 2011

By Chris Wiest
Vice President of Public
Policy and Advocacy



When the polls open on Nov. 8, registered voters will have a chance to elect officials whom they believe will best represent them and the community's interests. This year, voters here will have an opportunity to elect the Monroe County executive, district attorney, and other local officials including county legislators, city council and school board members as well as officials in several towns. These races are very important because the business community and area residents are directly affected by the decisions made at the local government level.

Our community faces significant challenges that elected officials must address. Some of the concerns most commonly cited by

Rochester Business Alliance members include high taxes, education, job creation/retention, and economic development for our region. Other issues likely to be highlighted in this year's campaigns include public safety, budget deficits, and government transparency and accountability.

Of particular note are races in the Monroe County Legislature. Currently, Republicans hold a 16-to-13 seat majority. However, all 29 districts are up for re-election this fall. Picking up two seats would give Democrats a majority in the County Legislature – which they have not held since 1992 – and significantly shift the balance of power in county government.

RBA, through its political action committee – The Committee for a Strong Economy – will be endorsing candidates in local races this fall. Our 11-member PAC conducts an endorsement process each year to identify candidates dedicated to the economic well-being of our community and supportive of

RBA member interests.

A candidate who wishes to be considered for an endorsement must complete a questionnaire. In early October, the candidates are interviewed by the committee as well as other RBA members, who then take a “straw vote” to determine which candidate, if any, deserves endorsement.

Results are officially announced at our annual Endorsement Night in October and posted on our website prior to the election to assist employers and employees with voting decisions.

How can you help? Please encourage your employees to register to vote and participate in this year's elections. Visit www.elections.state.ny.us for more information.

And if you have any questions or would like to participate in the PAC's candidate interview process, email Colleen DiMartino or call (585) 256-4627. ★

Update on Local, State and Federal Initiatives

Unshackle Upstate

Our coalition is well-positioned to have an impact on the state's economic development policy with the recent appointment of its executive director and four of its leaders to the state's economic development councils.

Unshackle Upstate's founders – Sandy Parker, president and CEO of the RBA, Andrew Rudnick, president and CEO of the Buffalo Niagara Partnership – have been named to their regional councils, as have Lou Santoni, president of the Greater Binghamton chamber and Randy Wolken, president of MACNY.

Brian Sampson, Unshackle's executive director, was named to the statewide chairman's panel,

which will oversee the work of the regional councils. The councils are working now to develop long-term economic development plans and priorities for each of their regions.

Rochester WellFest 2011

As part of our continuing focus on wellness, the *Eat Well, Live Well* Challenge and the High Blood Pressure Collaborative, Rochester Business Alliance has signed on as a sponsor of Rochester WellFest 2011, Rochester's largest and most comprehensive employee Healthy Living Exposition. The event is from 10:30 a.m. until 2:30 p.m. Sept. 13 at the Riverside Convention Center.

Attendees will have access to free confidential

health screenings, traditional and alternative health care providers, fitness experts, nutrition planners and several other Healthy Living exhibitors. Raffle prizes will also be available.

Although tickets are required, admission is free for RBA members and friends. To print your ticket, go to www.RochesterWellFest.com. If you are an employer, please click here, enter promotional code “RB 9217” and receive admission tickets for all of your employees, posters, and a listing on the website.

We encourage businesses to promote this event to their employees to support efforts to help Rochester become the healthiest community in America. ★

Conversations with Federal Representatives

The recently passed debt ceiling bill and S&P's downgrading of the U.S. credit rating has left many uncertain about our nation's future. According to a CNN poll, 60 percent of Americans believe the economy is “in a downturn” and “continuing to worsen.”

While unemployment rates in the Rochester region have dropped, it remains to be seen how economic concerns will impact job creation going forward. We will be inviting representatives of our Congressional delegation to meet with RBA members to

discuss federal budget concerns as well as other issues that are important to employers. Stay tuned for further details on these upcoming “Conversations With” meetings. ★



Family and Medical Leave Act - Frequently Asked Questions

Q.What should an employer do if the employee does not want his or her FMLA-qualifying absence to be designated as FMLA and refuses to have the certification completed?

A. The employer does not have to get the employee's consent to designate a leave as FMLA that qualifies under FMLA. However, the employer could run the risk of not being able to later prove that the leave was for a qualifying reason. For documentation purposes, it's important that the employer write to the employee and restate the reasons the employee gave for needing the leave. Also, state that the reasons appear to qualify for FMLA leave and tell the employee that the time off is being counted against their FMLA entitlement. Keep a copy of the letter in the employee's file for future reference.

Source: AAJM EA Connections March 2011

Q.An employee is preparing for military training and will be gone for six months. Does this military leave qualify him for FMLA protection?

A. No, a military leave during which an employee is simply going on active duty or training would not fall under the protection of FMLA, though they would be protected under the Uniformed Services Employment and Re-employment and Rights Act (USERRA). However, there are two military-related leaves that qualify employees with certain family members in the service (with some exceptions) for FMLA leave.

Qualifying Exigency: Up to 12 weeks for any qualifying exigency that arise out of the fact that the employee's spouse, son, daughter, or parent is a covered military member (only National Guard or Reserves and certain retired military only) who is under a call or order to active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. Among the covered qualifying exigencies are things such as attending military-sponsored functions, making appropriate financial and legal arrangements, arranging for alternative childcare, taking up to five days of leave to spend time with a covered military member

who is on short-term temporary, rest and recuperation leave during deployment, etc. A complete list is found in the FMLA Military Family Leave FAQs.



Military Caregiver: Up to 26 work-weeks of leave during a single 12-month period to care for a covered service member (includes members of both the Regular Armed Forces and the National Guard or Reserves) with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee. A "serious injury or illness" is an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating.

For information on additional frequently asked questions related to qualifying exigency leave or military caregiver leave, please visit the U.S. Department of Labor FMLA website. ★

Human Resource Forum Registration Starting Soon

The Senior Human Resource Executive Forums meet monthly, providing invaluable opportunities for networking and discussion of critical HR issues. These forums are organized by employee size of the participating companies, and are open to the senior HR executive or top HR professional of RBA member companies at the Corporate and Partner levels. The Small Company forum is for those business with fewer than 250 employees; and the Large Company forum is for those with 250 or more employees.

A non-refundable annual registration fee of \$185 is required and covers all eight meetings for the series, which runs from October 2011 through May 2012. For more information, please contact Kathy Novak at (585) 256-4618 or e-mail kathy.novak@rballiance.com.

The **Employee Relations Forum** provides an opportunity for participants to discuss employee relations issues and situations with other Human Resource professionals and learn from their past experiences and

suggestions. As needed, an employment law attorney or HR consultant will present on topics of interest.

Topics discussed this past year include: best practices, engaging managers, performance management, avoiding claims of discrimination and wrongful termination, etc.

A nonrefundable annual registration fee of

\$150 is required and covers all six meetings for the 2011-2012 series, which runs from October through May. For more information, contact Jennifer Suppé at (585) 256-4608 or e-mail jennifer.suppe@rballiance.com.

To register for either of these, go to the RBA website, and click on the forum of interest. Early registration is recommended as space is offered on a first-come, first-served basis. ★

Survey Spotlight

- **Results of the 2011 Pay Trends Survey were released in early September**
- **Results for the following surveys will be released in late September or early October:**
 - 2011 RBA Health Benefits Survey
 - 2012 RBA Holiday Closing Survey

Corporate and Partner members in good standing can request a copy of a specific survey by contacting either Kathy Novak at (585) 256-4618 or Jennifer Suppé at (585) 256-4608.

Employer Obligations Toward Employees and Same-Sex Partners

By Sharon P. Stiller
Partner at Abrams
Fensterman Fensterman
Eisman Greenberg
Formato & Einiger LLP



Effective July 24, 2011, New York joined Massachusetts, Connecticut, Iowa, Vermont, New Hampshire, and Washington, D.C. in legalizing same-sex marriage.

The law amends the statutory definition of a marriage in Section 10-a of the New York Domestic Relations Law to provide: "A marriage that is otherwise valid shall be valid regardless of whether the parties to the marriage are of the same or different sex," and mandates that same-sex and different-sex marriages be treated equally by the government. The government may not deny rights, benefits, protections, or privileges because the partners are of the same or different sexes.

The Marriage Equality Act retains the religious exemption permitting certain religious entities to employ or prefer members of their own denomination, as well as permitting them to take "such action as is calculated by such organization to promote the religious principles for which it is established or maintained."

While same-sex spouses will be deemed to be spouses under the Act, developing case law will determine the full requirements for New York employers.

Employers may be surprised to learn that other protections exist for same-sex unions, even if the parties are not married or not married in New York. This article focuses on three recent changes – bereavement leave, health care benefits, and Family and Medical Leave for children of same-sex couples.

Bereavement Leave for Same-sex Unions: Effective November 2010, the law was quietly changed to require that an employer who provides bereavement leave for the death of a spouse, parent, child, or close relative, must now offer the same leave for the death of a same-sex partner, or the

death of the parent, child or other close relative of the same-sex partner. The new law does not mandate providing bereavement leave. But if it is offered, it must be offered equally to same-sex families. This law does not contain any exemptions, and it applies to all size employers. One question is whether the religious exemption provisions of the Marriage Equality Act will apply to bereavement leave even though the leave statute contains no such exemption, when leave is sought by a same-sex partner who married in New York.

Health Insurance Benefits for Same-Sex Partners: In 2008, New York's insurance department issued a ruling requiring that same-sex partners be permitted to participate in health insurance plans, if they were validly married in a state that recognizes same-sex unions.

Courts have also held that participants in a same-sex union in a state that recognizes the marriage qualify as spouses for purposes of health benefits. In one case, this meant that a community college employee qualified for spousal health care benefits. In another case, this meant upholding an executive order recognizing out-of-state same-sex marriages for purposes of public employee health insurance coverage and other benefits.

In 2011, a New York appellate court ruled that an employer did not engage in sexual orientation discrimination by offering health care benefits to same-sex domestic partners, but not offering it to opposite-sex domestic partners. The Court found that there was a rational basis for the distinction, because individuals living together could obtain health care benefits by marrying, but same-sex partners could not then marry in New York.

The enactment of the Marriage Equality Act means that the rationale used by the court no longer applies.

Family and Medical Leave Coverage in Same-Sex Unions: The U.S. Department of Labor recently published a fact sheet expanding coverage under the Family and Medical Leave Act to provide leave for birth, bonding or to care for a child with a serious health condition on the basis of an "in loco parentis" relationship, providing these rights to participants in a same-sex union. The FMLA has always provided leave benefits to an individual acting "in loco parentis" or as a parent to a child, even if the person is not a birth parent. The Department of Labor has determined that "[a] person who will co-parent a same-sex partner's biological child may take leave for the birth of the child and for bonding." Similarly, that partner would be able to take leave to care for the child's serious health condition. Persons who take on the role of a parent and assume day-to-day responsibilities to care for or financially support a child are deemed to be acting "in loco parentis", whether or not a biological parent also exists. The ability for someone acting "in loco parentis" to take leave is not new. What is new is that the Labor Department has specifically acknowledged the application of this standard to same-sex unions.

As society changes, case and statutory law change. The recognition of same-sex unions has created an evolving body of law defining when an employer must afford the same rights given to other employees and their spouses to the partners in a same-sex union. We anticipate that the laws in this area will continue to change quickly. ✦



When: September 13
Time: 10:30 a.m. - 2:30 p.m.
Where: Rochester Riverside
Convention Center

Attend - WNY's largest and most comprehensive employee healthy living exposition!
Meet - Healthy Living Providers to choose your own individualized program for a healthier lifestyle!
Enjoy - Free health screenings, nutrition planners, fitness demonstrations, raffle prizes and more!

Go to www.ROCHESTERWELLFEST.com

RBA members can use the
PROMO Code "RB 9217"
for complimentary tickets and posters

Wellness in the Workplace: Bergmann Associates

Rochester Business Alliance members cite the rising cost of health care as a major worry for employers and their workers. The RBA Health Care Initiative is addressing this concern by encouraging companies to promote wellness in the workplace. In this column, we'll share some examples and best practices.

Bergmann Associates began offering wellness programs 11 years ago, hoping to improve the health and wellbeing of employees and their families and lower their health care costs. Last year, the company experienced a less than 1 percent increase in the price of its health insurance premiums, which is remarkable considering the double-digit increases that most companies are used to, said Barbara Rowley, manager of benefit programs for the architecture/engineering firm that is headquartered on Main Street in downtown Rochester.

But even more beneficial, she said, is how

much these programs improved morale and teamwork. "Employees who participated reported that they increased their activity, started walking more, and learned to pay more attention to their food intake and simply felt better overall," Rowley said. "And they also told us that they enjoyed activities such as lunchtime walks with co-workers."

Among the programs that staff at Bergmann Associates participate in: American Heart Association Heart Walk, Chase Corporate Challenge and the *Eat Well, Live Well* Challenge, promoted by the Rochester Business Alliance. In addition, the company has offered an in-office annual flu vaccine clinic since 2006.

Wellness programs don't have to cost the company a lot of money, Rowley said. "Consider your company's culture and use it to come up with unique, creative ideas," she said. "Find low-cost incentives and prizes for participation. Come up with creative

motivational mechanisms like 'Tips of the Day' or organize daily activities."

Rowley said currently more than half of Bergmann's staff participates in the company's wellness programs.

The keys to success? "Make sure that upper management is on-board, engaged and participating," Rowley said. "Engage and encourage 'team leaders' throughout the organization to spread the work and keep employees engaged within their own group/department." But be careful not to overwhelm employees with emails about the events, she said, as that can discourage participation. ★



Health, Safety and Environment Update Meeting the Standard of Care

By Chip Dawson



With standards, OSHA regulations are clearly the focus for most employers on workplace safety issues. "What does OSHA say?" is a frequent question for those of us in the safety business.

However, there is another, much broader, standard that all of us are expected to follow. It's called the standard of care in tort law. Wikipedia defines it as "the degree of prudence and caution required of an individual who is under a duty to care." In simple terms, it's "what would a reasonable person do in the circumstances at hand." The courts apply it broadly to manufacturers, professionals in many fields of work and even to individuals in ordinary situations.

When you lay the standard of care on top of OSHA regulations, the situations that should concern an employer expand greatly. For

starters, the OSHA General Duty clause uses Standard of Care as a core element. It may not be in the regulations, but if it's a hazard, issue or solution commonly known by others in your business or field of work, OSHA can easily make the case that it should have been applied or considered.

OSHA is not the only concern, however. When the issue is outside the scope of the workers compensation no-fault provisions, the courts come into play. For example, one in five Fortune 500 companies have instituted a total ban on cell phone use while employees are driving on company business. They have effectively established the standard of care for other employers making it very difficult to defend the actions of your employee if he or she were to run down a child in the street while chatting on a cell phone.

Standards of Care can be found everywhere. They exist in other federal law, state law and local regulations. The hundreds of consensus standards published by ANSI, NFPA, ASTM and other organizations all inform reasonable people and organizations of actions or

protections that should be implemented. In my experience, employers frequently are unaware of standards that have been established by consensus organizations or even their industry groups that have specific application to the work they do. Such standards may be considered expensive, but their cost pales in relation to a court judgment.

If you'd like help with identifying standards that might apply to your organization, call or send an e-mail.

If you have HSE questions or column suggestions, or would like to be added to the e-mail HSE Update list, contact Chip Dawson at (585) 461-1549 or chipdawson@aol.com. ★

The Rochester Business Alliance is a specialist in the health insurance needs of businesses employing from one to 50 employees. We currently serve as health insurance administrator for more than 950 employer groups in the Rochester area.

For more details, visit
www.RochesterBusinessAlliance.com

Recent Study Shows Economy, Jobs Available in Rochester

By Barb Cutrona
Vice President
of Operations



With all the focus on the stock market's wild ride, and the predictions being made about the economy, one important fact is being overlooked: there are jobs available right here in Rochester.

In fact, Rochester recently was again ranked

first among metros in New York state for private sector and non-farm job growth, according to the state Department of Labor. For July, the most recent figures available, the five county metro area, had 509,200 non-farm jobs, up from 498,700 a year earlier.

A site selector magazine, *Business Facilities*, also ranked the region as the national leader in job growth in its 2011 rankings of mid-sized metropolitan areas.

Right now, RBA Staffing Solutions is looking for candidates to fill a variety of job openings,

from purchasing expeditors to industrial mechanics. Some are for full-time permanent jobs, while other companies are seeking a temporary worker, with an option to hire.

Talk to your friends and family, your neighbors. Let them know if they're looking for a job in one of these areas they should look at available listings by clicking here to check out our website or clicking here to view our RBA Staffing Solutions Facebook page. Or they can apply in person at our offices, 150 State St., in downtown Rochester between 8:30 a.m. and 4:30 p.m. weekdays. ★

Customer Service Seminar Features Author Gregg Lederman

The Rochester Area Chambers of Commerce – a group of 18 chambers, including the Rochester Business Alliance – are partnering to present a special event aimed at helping businesses improve their customer service.

The program is set for Sept. 27 at the Doubletree Hotel in Henrietta. Entitled “Designing the Perfect Customer Experience,” it combines networking with a workshop led by nationally recognized speaker and author Gregg Lederman. Lederman, founder and managing partner of Brand Integrity, is the

author of the award-winning book, *Achieve Brand Integrity*. A graduate of the University of Rochester's William E. Simon Graduate School of Business Administration, he is a frequent speaker at conferences, corporate programs and universities on experience management and culture change.

The program opens with networking from 7:30 to 8:30 a.m., followed by a workshop running until 10:30 a.m. which focuses on helping participants develop, design and successfully implement a positive customer experience for their business. It is based

on a series of typical “touchpoints,” those occasions when customers interact with your people, products, and/or services in ways that lead them to have a good, bad, or indifferent experience.

Cost for the program is \$45/person for RBA members, and \$35 for each additional person from the same company. Breakfast is included. The non-member rate is \$65 per person, and \$50 for additional attendees. Click here for more information or to register. ★

Friday Business Briefings

Sept. 9 - The Importance of Employee Performance Appraisals

Sept. 16 - Ergonomics and Our Aging Workforce

Oct. 7 - Navigating Open Enrollment Communications - What's Your Plan?

Oct. 21 - TBD

Time: 8-9 a.m.

Location: Rochester Business Alliance
150 State St., Rochester, NY 14614

Open to: Members only (no cost)
To register, e-mail Michele Hefferon at
Michele.Hefferon@RBAAlliance.com

Develop Your Marketing Strategy in Three Seminars

Reaching the right customers with the right message is essential to business success.

But just how is that done? Three upcoming Rochester Business Alliance seminars will offer insight and strategies that every business person should consider.

“Marketing and Advertising – Planning for Success” is set for 8 a.m. to 1 p.m. Sept. 20. Taught by experienced marketers Sharon Tczap and Larry Poploski, the session will cover formulating and executing an effective marketing plan, essential first steps to any advertising campaign.

On Sept. 23, they will lead another seminar entitled “Target Market Sharpshooting.” This course, which also runs from 8 a.m. to 1 p.m., will help companies differentiate themselves from their competitors, while helping them

identify the perfect customer, as well as who will be most profitable and easiest to sell to.

Then on Oct. 11, from 8 a.m. to noon, Tina Smagala will lead a seminar in “How to Sell the Way Your Customer Buys.” The course will focus on identifying potential customer's primary buying style to improve a company's effectiveness in sales.

Each of these courses stands alone, but they also make a great series. Companies can also have these subjects covered with them through a custom training program, designed for you by RBA staff and trainers to fit the specific needs of your business.

For pricing or additional information on these or any RBA training seminars, log on to our website. To discuss custom training options, call Amy Platenik at (585) 256-4632. ★

Seminars

September

- 7 Goal Setting for Success
- 8+ Business Writing and Emails Series
- 8+ Supervision Series
- 13 Crisis Communications: How to Respond in the First Hours
- 13 Professional Relationships and Listening
- 14 Assertiveness
- 15 Managing Emotions in the Workplace
- 20 Marketing and Advertising: Planning for Success
- 21 How to Hold People Accountable
- 21 Social Media Roller Coaster in the Workplace
- 21 Personal Effectiveness
- 23 Target Marketing Sharpshooting
- 27 Leadership Discovery: Enhancing Leadership Effectiveness
- 29 Personal Safety Awareness Program
- 30 Managing Time and Priorities

October

- 3 Leading the Safety Process
- 4 OSHA Recordkeeping
- 4 Safety Committee Operations
- 5 Bridging the New Generation Gap
- 5 Managing the Emergency
- 6 Accident Investigation Fundamentals
- 7 Creating and Delivering WOW Presentations
- 11 How to Sell the Way Your Customer Buys
- 12 Yellow Page Advertising: The Real Facts
- 12 Dealing with Difficult Personalities
- 13 Anger in the Workplace
- 19 The GO System – Getting Organized
- 21 Leadership for Managers
- 21 Strategic Thinking
- 25 Conflict Management
- 26 Performance Management
- 26 Escape the Email Vortex - Webinar

Computer Training

September

- 6 MS Word Advanced
- 8 MS Access Advanced Part I
- 12 MS Excel Introduction
- 15 MS Access Advanced Part 2
- 20 MS Excel Advanced Part I
- 23 MS Excel Creating & Using Formulas

October

- 4 MS Access Introduction
- 10 MS Excel Introduction
- 11 MS Access Advanced Part I
- 20 MS Excel Advanced Part I
- 24 MS PowerPoint Introduction

Safety update -
check out
October seminars

Feel secure -
Personal Safety
Awareness
Programs Sept. 29

Learn your
customer's
buying style
Oct. 11

Be in control
of your time
Sept. 30

For additional course listings or to register, visit our calendar online at www.RochesterBusinessAlliance.com.

Seminars are held at the Rochester Business Alliance, 150 State St.

Computer courses are held off site. Please check location when registering.