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Introducing Jeff Mulitalo

On March 9, 2015 there seemed to be some dark clouds hovering over the east side of the State Office Building. Meteorologists later determined that this odd happenstance had less to do with weather and more to do with DHRM's costly mistake of allowing Paovale Jeff Mulitalo join their admin team. Some were initially surprised that there was no thunder or shaking of the building - but they later learned that Jeff's time would initially be shared between DHRM and the Governor's Office of Management. "That lessens the blow," one observer noted, "this will probably just get progressively worse."



Debbie and Wendy have released the following information to help all DHRM employees know what to expect:

EARLY BACKGROUND:

- Jeff's father, Paovale Sagapolu Mulitalo, was a native Samoan and spent all of his youthful years in the Pacific. Paovale's part-time high school jobs were very different than Jeff's, including such things as working as a shark hunter.
- Jeff's mother, Beverly Keller, was raised in Price, Utah. She probably had youthful dreams of marrying someone with a name like Steve Johnson. Paovale and Beverly met at Brigham Young University and pursued marriage even though some in their immediate circle voiced concerns about a cross-cultural marriage.
- Jeff is the youngest of four children and was raised in Bountiful, Utah. He was a normal, dorky kid who loved basketball and new-wave bands from his childhood (INXS, Howard Jones, etc).

PROFESSIONAL BACKGROUND:

- Jeff earned his undergraduate and graduate degrees at the University of Utah.
- Jeff interned at the Utah House of Representatives for (then) Reps Bigelow and Dayton.
- Jeff worked for a few years managing student / academic affairs for an engineering department at the U.
- Jeff worked for the HR office at the Utah State Courts where he managed leadership / management / organizational development program.



A Message from a Director Continued...

- Jeff worked for the Utah Department of Health directing performance improvement.
- Jeff works periodically as an independent consultant, speaker, and executive coach.
- Jeff works for GOMB as an operational excellence consultant.

CURRENT ITEMS / QUIRKS:

- Jeff and his wife Jodi are the parents of three daughters (10, 8, and 5). Jeff is helping his daughters change their devotions from Barbie to basketball.
- Jeff's hobbies include exercising, sleeping, playing with kids, and eating. If he finds some time to devote to his own interests, it is usually devoted to developing leadership ideas.
- Jeff has an almost inexplicable devotion to BYU given the depth of his integration with the University of Utah. While working at the University of Utah, the students would regularly attack Jeff's car - painting it with things like "world's number one Ute fan" and "honk if you hate the Cougars." Jeff was saddened to hear so many people honk when he drove home that particular evening.

MOVING FORWARD:

- Jeff is thrilled for the opportunity to work with DHRM and believes in their people, vision, and strategies. The BIS team is working through their unusually high levels of cognitive dissonance.
- Jeff has been known to emphasize two words in his new role: business salience.
- Jeff feels fortunate to have a chance to build upon the amazing work done by the team before his arrival. Including an operations perspective is a natural next step.
- This is probably the last time that Jeff will describe himself in third person.



Because there is a Seinfeld clip for everything - including referring to yourself in the third person...

What About Bob?

Getting Serious About Serious Health Conditions



By: Bob Thompson
Labor Relations
Director

Every now and then a court decision comes along that leaves many of us scratching our heads wondering, “What Just Happened?!” In this edition, I would like to share with you the latest such case. This one is from the 8th Circuit Court of Appeals, where the court went into sharp detail over the Family and Medical Leave Act (FMLA) serious health condition circumstance known as the “regimen test.”

The case is *Johnson v. Wheeling Machine Products*, No.13-3786 (2015). The facts establish that Johnson’s employment with Wheeling required that he sometimes drive a forklift. While at work on May 12, 2014, Johnson came down with a headache so severe his vision became blurred and he felt as if his head was going to explode. He informed his supervisor he was going to leave.

Johnson left work and went to a nearby health care clinic where he saw a physician’s assistant (PA). The PA diagnosed him with “high blood-pressure” and prescribed medication. He did not schedule a follow-up appointment, but did tell Johnson to follow-up with his regular doctor. The PA also gave Johnson a three-day work release note. This note had a blank space for a name, and the PA instructed Johnson to write in his own name on the note.

Johnson then returned to work with the excuse note, but his employer found the note suspicious and asked Johnson to obtain a new note. The next day Johnson returned with a new note from the clinic that was signed by a paramedic, not the PA. Wheeling again found this suspicious and asked Johnson to obtain another note stating the reasons for being off work. The clinic would not give Johnson a more detailed explanation for his absence.

On May 16, 2014, Wheeling suspended Johnson and on the 18th terminated him. The basis for termination was essentially for altering, falsifying, or forging the work excuse notes.

Johnson sued Wheeling alleging violations of the FMLA, specifically interference and retaliation. At court the issue became whether Johnson had a “serious medical condition” as that term is defined under the Act.

As you may know, the FMLA allows an employee to take job related leave for their own serious health condition, or that of a spouse, child, or parent. A serious health condition exists under the following circumstances:

- Inpatient care
- Incapacity and treatment
- Pregnancy or prenatal care
- Permanent or long-term condition; or
- Condition requiring multiple treatments

What About Bob? Continued...

At issue in this case was the incapacity and treatment prong of the serious health test. Incapacity and treatment can be substantiated in two ways:

1. Three days of incapacity followed with two or more treatments by a healthcare provider within 30 days.
2. At least one treatment by a healthcare provider that results in a regimen of continuing treatment *under the supervision of the provider*. This is known as the regimen test.

In this case Johnson clearly had a period of incapacity and had in fact visited a health care provider. The question became whether he had seen a health care provider for a second time within 30 days, or in not, did he have a continuing regimen of treatment under the supervision of a health care provider?

The 8th Circuit found that because Johnson could not establish that he followed up with a doctor within 30 days he could not claim a serious health condition under the first prong of the incapacity and treatment test. Therefore, to prove his case, Johnson would have to prove the regimen test. The answer to this was whether the medication prescribed for high blood pressure was under the supervision of the provider. The court found it was not. It concluded that the PA had “simply prescribed Johnson medication and sent him on his way”. There was no oversight or direction from the PA. Under such circumstances, the court reasoned, Johnson did not have a serious health condition and therefore his termination was not protected under the FMLA.

While this decision supported the employer it is problematic for various reasons. First, Johnson was terminated before he even had a chance to visit a health care provider within the allowed 30 days. Moreover, it applied a very exacting standard for “supervision of treatment.” Normally, if an employee sees a health care provider, is prescribed medication, and a follow-up visit is recommended a serious health condition exists. This is especially true in our world of “fast-food” urgent patient care exemplified by walk-in clinics now available at supermarkets.

Presented with these facts in our settings it would be difficult to find the employee did not have a serious health condition. What this case does do however, is recognize at a more heightened level the requirement that when establishing a serious health condition under the regimen of treatment standard we have some latitude to determine whether the regimen of treatment is being supervised by a healthcare provider.

By requiring that the health care provider supervise the regimen, the regulation helps to ensure that minor health conditions will fall outside the FMLA’s coverage. At the end of the day however, if an employee has had a period of incapacity of three or more days that also involves two or more treatments within 30 days of the incapacity or has visited a health care provider and was prescribed medication, I would error with a conclusion that the employee has a serious health condition. ■





Legislative Session Survivors Tell All

Seven session survivors share the good, the bad, and the ugly of what working during the 2015 legislative session was like. From parking problems to a huge sigh of relief and everything in between, you'll hear it all.

Parking! - Barbara Smith

When I reflect on the session this year, I think about the many retirement bills I tracked, the countless meetings I attended, and my work with Dee Larsen - the legal representative for URS. But my thoughts about the session come back to parking. If you are not here by 7:00 or 7:30 a.m., good luck finding a spot. You end up parking on the street and get your morning exercise walking to work. And if you have to leave the hill during the day, good luck finding a spot when you return-anywhere. So what is the solution? Many have been proposed, but it is only for 45 days so keep a stiff upper lip and carry on.



One for the Books - Paul Morley

It was fun to be involved in the legislative process this year. This was a particularly exciting year because of H.B. 239 with its passage bringing a big win for compensation. There are significant opportunities and less statutory restrictions for compensation that makes H.B. 239 a great success. We had many high and low moments with this bill. The low moments happened for me when the bill was circled on the house floor for days and I was concerned that it would ever gain steam again. The high moments came when the bill finally gained momentum and "Woo Who" cheers (most of which came from Debbie) circulated through the office after its final passage. H.B. 8 is also a great win for compensation since it marks the first time that Market Comparability Increases (MCA) were funded since 2001. For years, the time and work that goes into MCA recommendations never saw the light of day. It was exciting to watch as our efforts became reality this year. Now we can focus on what passed and what legislation our team needs to focus on for the next year.

Legislative Lessons Learned - Benn Buys

I have been following the legislative session for the past seven years with varying degrees of interest, but this last session was my first with DHRM. WOW! It was quite the difference. Angela's tracking sheet had 66 bills, almost half of which were priority bills to the department. Jeff Mulitalo has often brought up the need he saw at different agencies to have HR at the table when he was working on Operational Excellence initiatives. The session really nailed home the point that HR permeates every aspect state government. It's great to be part of something that has statewide impact and value.





Session Survivors Continued...

What I learned - Debbie Cragun

I have been directly working with legislative assignments for about 8 years now and I can attest that this year's session was the craziest so far. While the number of HR related bills was actually not that bad, there were a few that consumed a great deal of our time and gave us a high amount of stress. There were also budget related issues that kept us greatly entertained (to put it nicely) for many weeks of the session. But after all is said and done, this was a tremendously successful session for us. H.B. 239 passed and you all know just how important that one was to me. We also managed to get a compensation package that is more than we've received in many years, and it included MCA's and our new Hot Spot increases. Looking back after the fact, these successes really do make the difficulties worth it.



Bear Tracking or Bill Tracking?- Angela Kula

Legislative tracking is very similar to bear tracking. You have to track with stealth and camouflage yourself in uncomfortable, dry clean only clothing. You scour the land on Capitol Hill searching for clues to a bill status update only to find a scary, hairy, fanged beast (aka legislator) at the end of the trail. You make the observation that if you make one false move you are sure to be gobbled up. Torn limb for limb. So you weigh your options and decide it's best to play dead - to let someone else fall victim of the session. But just as you're passed by you make your move. You pounce like a bobcat and demand information. You want to know **what** bills, **where** they are, **why** DHRM should care, **when** they will be heard, and **who** wants to know of your findings. Then with a wolf-like smile, you release your prey and say, "Until another day...."

Greater Understanding - Bob Thompson

As always, this legislative session was a learning experience for me. To begin with, the sheer volume of bills introduced this year was sobering. It required a great deal of effort to simply assure that issues important to DHRM were identified. I also gained a greater understanding of the importance of working closely and in concert with all parties whose interests could be affected by the proposed legislation. I look forward to next year where new and interesting challenges will present themselves for DHRM consideration.

WHEW!!! - Wendy Peterson

WHEW, it was a wild ride! Even though I was involved with the session last year, the craziness of this session was a new experience for me. This session brought many learning experiences my way. I learned that legislators are very interested in what agencies think about proposed legislation. On many occasions we were able to share DHRM's point of view. We found many forums to express our concerns. From standing and waiting outside of house chambers for a legislator, setting up last minute meetings with sponsors of bills, meeting with constituents well into the evening, to being unexpectedly called up to testify at committee hearings - DHRM was well represented. What I learned the most this session is how successful we can be when everyone pulls together. I was grateful for the help I received from HR Field Directors who gave me a heads up on several pieces of legislation that impacted our department. I was also grateful for the late night company I received from Debbie, Bob, Paul, Benn and Barbara. Many legislative meetings were held well after normal working hours. Finally, I was grateful for Angela's timely legislative updates. I'm grateful it came to a close; however, a small part of me will miss the craziness of the session. Bring on 2016!



 2015 State Benefit Fair Schedule					
Agency	Address	City	Room	Date	Time
MASOB Building	195 N 1950 W	Salt Lake	Common Area	20-Apr	9:00-2:00
Workforce Services	475 W Price River Dr.	Price	Large Conf. Room	21-Apr	10:00-12:00
Corrections	255 E 300 N	Gunnison	Large Conf. Room	22-Apr	9:00-12:00
Snow College	800 W 200 S	Richfield	Admin. Bldg. Room 147 A&D	22-Apr	2:00-4:00
Dixie State University	225 S 700 E	St. George	Gardner Center Ballroom	23-Apr	9:00-12:00
UDOT	1470 N Airport Rd	Cedar City	Large Conf. Room	23-Apr	2:00-4:00
State Courts	450 S State St.	Salt Lake	1st Floor Conf. Room	27-Apr	10:00-2:00
Ogden Regional Center	2540 Washington Blvd.	Ogden	Large Conf. Room	28-Apr	10:00-1:00
Davis ATC	550 E 300 S	Kaysville	Student Commons	29-Apr	1:30-3:30
Calvin Rampton Building	4501 S 2700 W	Salt Lake	Atrium	30-Apr	9:00-2:00
Workforce Services	180 North 100 West	Logan	Large Conf. Room	4-May	10:00-12:00
Natural Resources	1594 W North Temple	Salt Lake	Auditorium	5-May	9:00-12:00
State Office Building	Admin. Building	Salt Lake	Auditorium	6-May	9:00-1:00
State Hospital	1300 E Center St.	Provo	Gymnasium	7-May	10:00-2:00
Dept. of Education	250 E 500 S	Salt Lake	Basement Large Conf. Room	11-May	9:00-12:00
Workforce Services	140 E 300 S	Salt Lake	Room 101 N & 101 S	12-May	9:00-2:00
Tax Commission	210 N 1950 W	Salt Lake	Room 1026	13-May	10:00-1:00
Cannon Health Building	288 N 1460 W	Salt Lake	Room 125	14-May	10:00-2:00
Development Center	895 N 900 E	American Fork	Heather Building	18-May	10:30-2:30
DOC (Fred House)	14727 Minuteman Dr.	Draper	Gymnasium	19-May	9:00-2:00
Workforce Services	1290 E 1450 S	Clearfield	Large Conf. Room	20-May	10:00-12:00
Recovery Services	515 E 100 S	Salt Lake	9th Floor Conf. Room	27-May	1:00-3:00
DCFS	950 E 25th Street	Ogden	Large Conf. Room	28-May	9:00-11:00

News YOU can USE

Open Enrollment Webinar with Justin Seal from PEHP

April 16, 2015

1:30-2:30pm

Stay tuned because registration will be open soon!



What Do You Do on the Weekends? By: Cole Gilmore, HR Analyst



The Mountain Man Rendezvous is where a bunch of people get together to live as they did in the 1800's. Specifically when the fur trappers would come down out of the mountains to sell the furs that they had gathered. They would buy, sell and trade furs and other things they had made.

There's storytelling, fighting, drinking, and misbehaving of all nature. Contests for shooting black powder rifles and pistols, hawk and knife competitions, lance, atl-atl, archery, and all sorts of things. While we are a BIT tamer than all that, we participate in all those contests. In addition, now we have contests for authenticity. Camps that are true to the era will have absolutely

nothing post-1840, the year the last rendezvous was held. That includes the food eaten and how it was prepared; but mostly the type of accommodations. My Pop used to have an 18-foot Cheyenne tepee. Part of the authenticity of that would be not only the order that the poles were set up but the way they were tied and how you greeted guests. Inside you would have hides to sleep on and other means to make yourself comfortable. We don't see many rawhide tepees any longer. Most are canvas, but that is still true to the time because of the introduction of canvas through trade.

I have a 50 caliber black powder Browning replica. Her name is Trinity and she shoots true so you had best said your prayers. Pop just finished making a cannon. Yes. A cannon. I will DESTROY whatever it is aimed at from a quarter mile away. That is a LOT of fun to shoot!

A big part of it all is the appearance. I have made all of my own clothing. So, I have buckskins, canvas pants, cotton trading shirts, moccasins of different types, and a Colonial Coat as well as a Kapote. That's a coat that is made out of a wool blanket.

I have been doing it my whole life. As a kid, some of my best memories are from Rondy. We would be given scraps of leather and other leftovers and we would make a pouch or something and then be "set to tradin". We would be gone all day long ("biggens" would watch out for the "littlens") trading up a little bit at a time until we had a nice knife, hawk, or whatever it was that we wanted and we just couldn't live without. I was always a good shot so I would win in the kids' shoots and get something pretty cool.

After 7:00 p.m., it is "primitive only" in the camp. No flashlights, cell phones, radio, generators or modern convenience. It is an amazingly peaceful and humbling time. Passing others on the road carrying a lantern and a dutch oven of food or a keg of, er, um... some sort of liquid of which I have no understanding. Walking through the mountains past different camps where someone may be telling stories, or singing, or playing a native flute. It is one of the most amazing legacies that my parents could have given me.



Email your
weekend
adventures to
Angela Kula

If you are doing
something
interesting on
the weekends,
we want to hear
about it.

CARE to
SHARE?



Help DHRM Spread the Word!

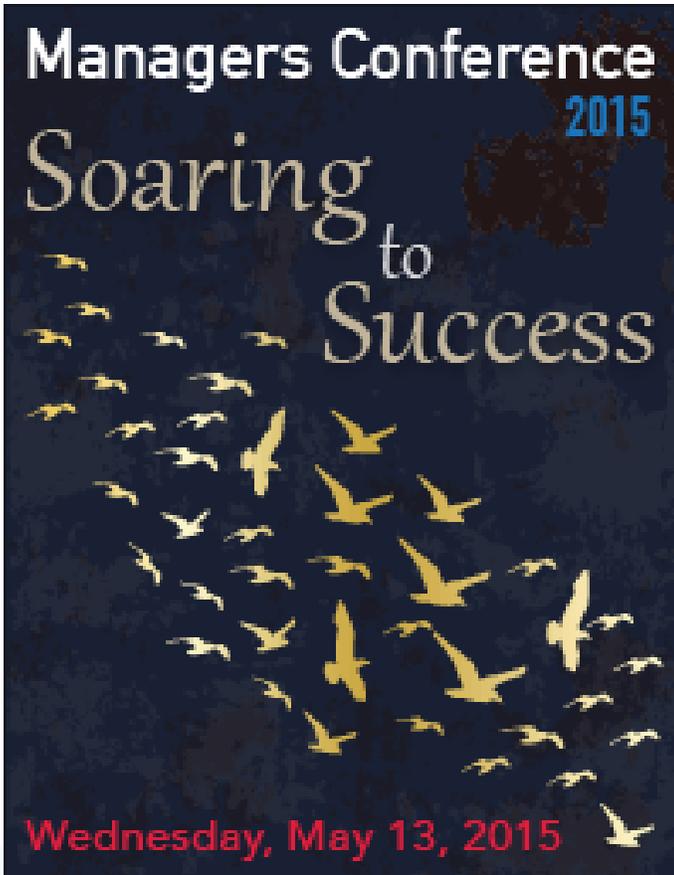
Registration is now open for the 2015 Managers Conference - Soaring to Success and DHRM needs YOUR help to spread the news.

When: May 13, 2015 8:30am-4:00pm

Where: Red Lion Conference Center

Who: Keynote speakers include Steph Davis - Rock climber, BASE jumper, Wingsuit pilot, author of Learning to Fly & Nathan Osmond - Singer, Producer

Cost: \$119 for standard registration and \$99 for USCPM member. Lunch included and free parking.



For more information or to register, visit the Employee Gateway

DHRM Staff changes

Check out the Water Cooler to see all the staffing that took place over the last two months.

WATER COOLER

Newsletter staff

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