





## What About Bob?

By: Bob Thompson, Labor Relations Director



How Did it Get So  
Late So Soon?

“You’re late,” says the accuser.

“Sorry,” says the accused. “I was busy talking about my feelings...”

When dealing with the Family Medical Leave Act time frames are important. Under the act, an employee requesting leave for a serious health condition must provide a medical certification for the leave if requested to do so by the employer.

Under the Federal Regulations, the employee has 15 days to return a requested certification, unless it is not practicable to do so under the specific circumstances. Indeed, 29 C.F.R. 825.305 states “The employee must provide a complete and sufficient certification to the employer IF required by the employer...”

So, what happens if an employee returns the requested medical certification late---after the expiration of the 15-day time limit? According to the recently decided case of *Kinds v. Ohio Bell Telephone Co.*, 1:10CVO1596, an employer can LAW-FULLY deny family medical leave benefits when an employee submits the medical certification beyond the 15-day deadline, even if the employee misses the deadline by a very short amount of time.

In *Kinds*, the employee failed to submit the required medical certification within the 15-day deadline. The Court ruled that this failure in and of itself was sufficient justification to deny *Kinds*’ protection under the Family Medical Leave Act. Nevertheless, the court notes, Ohio Bell provided a two week extension which *Kinds* again failed to meet. Nearly a month

after the extension deadline *Kinds* finally submitted the required medical certification without any explanation as to why the certification was so late. In a brave move, Ohio Bell denied the certification and thus denied family medical leave to *Kinds*. *Kinds* then sued on various grounds, but chiefly that Ohio Bell interfered with her right to take family medical leave.

The Ohio court rejected this claim. In doing so, the court found that Ohio Bell had done more than what was required under the law with regards to getting the required certification. Remember, *Kinds* was granted one clear extension to provide the required certification and had actually given her an additional extension provided she give a credible reason as to why getting the certification under the required deadlines was not “practicable.” Under these circumstances, the court held that as a matter of law, “it cannot be said that Ohio Bell’s refusal to accept *Kinds*’ twice late and still inadequate certification---- submitted one month past the FMLA required 15-day period--- constituted interference with *Kinds* FMLA rights.”

This decision is in harmony with the regulations which state that “If the employee fails to provide the employer with a complete and sufficient certification...or fails to provide ANY certification, the employer may deny the taking of FMLA leave...” and that “If the employee NEVER produces the certification, the leave is not FMLA leave.” 29 C.F.R.825.305(d) and 29 C.F.R. 825.313(b).

So what are the takeaways from this case and the corresponding regulations? First, if the Ohio Bell language is to be followed, even if the certification is one day late, it is still too late to support a request for FMLA leave. Second, you can and likely should, extend the initial certification period. The more generous you are in giving extensions, the more likely the court is to view your denial as reasonable. Third, according to the Bell decision, you do not have to grant any extensions to the 15-day certification period. While this approach would take a lot of courage, it is allowable under the law and regulations.



## Discretionary Increase Processing Update

By: Paul Morley, HR Consultant

By now you should have had enough time to absorb all of the important dates and assignments that are associated with fiscal year end processing. The major project we will be engaged in throughout the remainder of the fiscal year will be updating the discretionary tracking sheet located at the following link in the Microsoft One Drive site.

Here are the rules regarding the discretionary tracking sheet:

- 1- Only add employees to the sheet who will receive a discretionary increase.
- 2- Update the sheet only for employees who WILL receive the discretionary increase or a discretionary bonus on the date June 21, 2014 with fiscal year end processing. Agencies who will be processing the increase or the bonus after June 21, 2014 will need to do a manual process.
- 3- We will review and audit the discretionary sheet every Wednesday and update the employees on the sheet with current information. However, HR field staff will be ultimately responsible for ensuring that the right employees receive the increase. New hires will need to be added and ineligible employees will need to have their increase removed.
- 4- If an agency's discretionary plan is approved for an across-the-board increase of both the general and the discretionary, you do not need to complete the discretionary tracking sheet. We will work behind the scenes with you and DTS staff to process the increase for these employees. Please note that the entire agency must be approved for an across-the-board increase. If certain divisions within the agency are processing an across the board increase to every employee, you will still need to enter all those employees on the discretionary sheet.

Finally, if an agency will be processing a discretionary increase after June 21, 2014, you will need to make sure that the correct discretionary code is used at the time that the increase is processed. There will be a new reason code in HRE titled "ASI-Discretionary FY 2015" you can use to manually process the discretionary increase. This code will be active in the HRE system for one year. Please make sure this code is utilized when providing a discretionary increase in FY15. We need to be able to accurately report how the discretionary money is utilized. Thank you for your assistance.



OneDrive





## A Day in the Life of a HR Team...

By: Newsletter Staff

### Tax/Agriculture HR Team

#### Tax's Mission

Our Mission is to collect revenue for the state and local governments and to equitably administer tax and assigned motor vehicle laws.

Rosanne Ricks  
Seth Niederhauser  
Crystal Haywood  
Tami Hart  
Cindy Bane

#### Agriculture's Mission

Promote the healthy growth of Utah agriculture, conserve our natural resources and protect our food supply.

**HR2HR:** What are the particulars of running a successful HR Office?

**Tax/Ag HR Team:** Relationships. It's all about developing working relationships. If they don't trust you, it doesn't matter what you do. Part of the job of a HR office is reducing employee liability with employee actions engaged by management. We provide practical counsel to our customers. This helps them reduce or avoid employee liability as well as manage the workforce to get the required job done. We are also successful with training management on how to address employees when handling sticky issues. Our HR office is successful if we are all doing our jobs, and if we are doing it in a way that makes management comfortable and builds trust.

**HR2HR:** In terms of trust in working relationships, are there certain strategies to earning trust with the employees, for instance, administrative personnel that you may have trouble seeing eye-to-eye with on various issues?

**Tax/Ag HR Team:** One of the things we try not to do is end-run management. When employees come to us, we let management know what the issues are, that is, unless it's something we can't talk to them about, such as employee medical information.

Another big thing about building trust with management is having confidence in our work—showing

management you are confident in what you are doing. If they see that you are confident in what you are doing, they are more likely to trust you than if you don't present that confidence.

**HR2HR:** What are some of the challenges that make HR work in this office unique from other offices?

**Tax/Ag HR Team:** Hiring Tax Commission Processing seasonals is one challenge. Every year right as tax season is getting ready to start, during tax season, and even a little bit after the tax due date, we're hiring seasonals. We hire anywhere from 40-60 seasonals just to work during that time. Finding people, testing them, getting them to actually show up and stay all day, or be willing to work for the short amount of time we need them, can be quite a challenge. We used to have 15-20 people who would come back every year, but now it's starting to dwindle down. We now have only ten people or fewer who return every year.

Many DHRM field offices serve more than one agency. Our unique challenge is the diversity between our two customer agencies—the Tax Commission and the Department of Agriculture and Food. The employment issues are a universe apart. The Tax Commission is a strong bureaucracy because of the highly structured work they do based on state and federal tax laws. Whereas, at Agriculture they are just so diverse. They deal with animals, plants, insects, mattresses, gasoline,



**A Day in the Life of a HR Team Continued...** weights and measures, invasive weeds, and all kinds of things. The State Chemist and the State Veterinarian are there. They do egg and poultry inspections.

These are the people who check your eggs to make sure they are meeting USDA standards. Agriculture is especially concerned about the safety and security of the state's food supply. That is very different from the Tax Commission which is focused on the collection of state taxes. The Department of Agriculture and Food feed us, and the Tax Commission brings in the revenue that runs Utah State government.

**HR2HR:** What is most rewarding about working for this agency?

**Tax/Ag HR Team:** One of the most rewarding things about serving the Tax Commission and Agriculture is the professional development that we receive. The diversity and the challenges in the projects we complete have a tremendous impact on our professional development. For example, right now we're working on creating a new employee orientation for the department of Agriculture and we're looking at it from the standpoint of a new employment development program. We are trying to design something where the supervisors are involved rather than just an orientation by DHRM—a program where the supervisors work with the new employees.

We've talked about the diversity between the Tax Commission and Agriculture, but even at the Tax Commission itself, the different divisions are pretty diverse, from registering and licensing vehicles, to processing individual and corporate taxes, conducting audits, and even having police officers who help enforce motor vehicle

laws. They all have different HR needs with different challenges. It is the diversity of these challenges that help us to be well-rounded and able to provide good consultation to It's rewarding to be able to counsel with upper management about decisions. Sometimes they aren't pleasant decisions, but you just have to help them by explaining their options and what rules and laws apply so they can make the best decisions possible.

**HR2HR:** Please describe a day in the life of your HR team.

**Tax/Ag HR Team:** When serving two very different agencies, it depends on the day and where you are that day. At Agriculture, we assist management with job interviews and many employees walk into the HR office with personal questions. But a day in the life at the Tax Commission is kind of crazy. You can compare it to Alan Owens' juggling. You are sitting there juggling different sorts of work and then someone throws in a knife and you have to catch that knife without cutting yourself or anybody else. We are like every other field office in that regard. HR is like an emergency room. You just deal with whatever comes through the door in addition to what you had planned that day. So, every day is unpredictable.



From left to right:  
Rosanne Ricks, Tami Hart,  
Cindy Bane, Crystal Haywood,  
and Seth Niederhauser



## One Man's Garbage is Another Ocean's Concern

By: Chris Whipple, HR Technician II

During the search for the missing Malayan Airline Flight 370, over the Indian Ocean west of Australia, many of the ships involved found floating collections of plastic trash. These masses of plastics, known as garbage patches, quickly became a buzzword and as important sub-story of the airplane search. One of the largest and frequently studied patches is the "Great Pacific Garbage Patch." It is located between California and Hawaii. It spans an area roughly the size of Texas while containing about 750,000 pieces of displaced plastic.

Each year the amount of plastic waste increases by 3% worldwide. In the United States we recycle only about 7% of that waste. The continual increase in the use of plastics, production of plastics, and disposal of plastics leads to a major environmental concern. As citizens of Utah, it is not difficult for us to recognize the importance of regulating our use and disposal of plastic. The brash eye sore of plastics within our natural environment is frustrating to many of us, whether it is at our neighborhood park, along the shoreline trail, or within many of our state's national parks.

While the garbage patches brought national attention to the issue of plastic waste, there are certainly local solutions that we can focus on to help our community.

A Utah company is working hard to reduce our plastic waste in a useful way. PK Clean is a business that focuses on turning plastic waste into oil and diesel fuel. As their website states, "by converting all our landfilled plastics into oil that the company can replace 25% of annual U.S. auto consumption - paving the way to zero landfill and energy independence."

According to the Recycling Coalition of Utah, one ton of recycled plastics can save 5,774 kilo-watts of electricity, 685 gallons of oil, and 30 cubic yards of landfill space. In addition, recycling plastic takes 88% less energy than making plastics from raw materials.

As we all know, a major goal for the Department of Human Resource Management is to find ways to reduce our carbon footprint as an agency. This can be done in a variety of ways. It can be localized in the office, such as the process by Letty and Evelyn that was spotlighted in the last HR2HR Newsletter or it can be completed on a personal level.

There are quite a few simple things that all DHRM employees can do in order to reduce the plastic waste that the department contributes to:

- 1) Do not use plastics straws
- 2) Take reusable bags to the grocery store
- 3) Use ceramic or glass cups for your beverages
- 4) Drink filtered water from water fountains
- 5) Reuse plastic bottles

Of course there are many other easy things that can be done in order to cut down on the carbon footprint. If you have other suggestions or ideas pass them around the office. Often times it is the smallest acts that build up to giant change.



[View the video of The Great Pacific Garbage Patch](#)

## What Do You Do on the Weekends? By: Angela Kula, HR Communication Coordinator

You may have heard that Sue Recupero is a SCUBA diver! She and her husband, Ted, have taken their passion to the professional level – Sue is a Divemaster and Ted is an Open Water SCUBA instructor. Their love of SCUBA has taken them from their beginnings at Bonneville Seabase, where they took their initial training, to both coasts, whether it be wrecks off the Atlantic, or kelp forests off the California coast-line. Their weekends these days take them to a few local bodies of water.

Many people ask them, “Where do you dive in Utah?” They have quite a few favorite dive spots such as Fish Lake National Forest, Panguitch Lake, and Sand Hollow Reservoir State Park in Hurricane. Another favorite in Hurricane is Quail Creek State Park where they spent about an hour and a half under water on April 20th.

Ted and Sue brought their nephew Noah, his dog Kaia, and their dog Tefa. They put the 20-foot pontoon boat in the water and motored to a nice quiet little cove where they explored the underwater world. On Sue’s second dive with Ted, they discovered an old pleasure boat at about 50 feet that had been down there for quite some time. No motor or instrument panel was left on the vessel. Ted came up with a 10 pound river anchor in the rocks on his second dive. The fish they encounter in our Utah lakes are mostly carp, largemouth bass, as well as a few aggressive and playful bluegills.

Even though they have dived some spots repeatedly, each dive is different and there is always something new to see.



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

CARE to SHARE?

Email your weekend adventures to Angela Kula

## Designed Especially for DHRM: News YOU Can USE

Won't you get hip to this timely tip?

**Webinar** - Wednesday, June 18th, 8:30 am

DHRM is invited to take a road trip on the Communication Highway “Route ESC”

**Webinar registration will be open soon!!!**

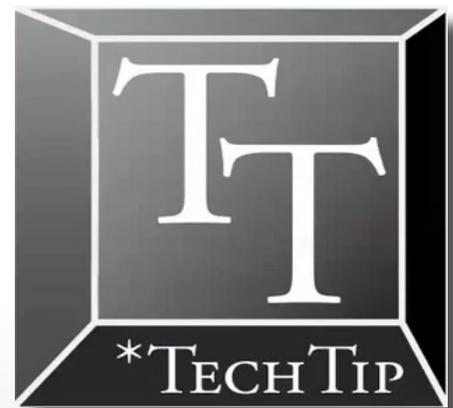




By: J.J. Acker, HR Manager

Do you enjoy watching Youtube? Our own Youtube sensation is the weekly Techtip. Well--- maybe not quite a million hits and a viral following, but hey, give it some time. Many moons ago, the “Techtip of the Week” was nothing more than a clever notion spawned in an ODBIT Team meeting. With Ashley Nelsen, self-proclaimed ODBIT Girl, at the helm, a Youtube channel was released (you can subscribe to the BIS Channel at <http://www.youtube.com/channel/UCx-eYmHDJc9faTWXW8q69FrA>). Concise video demonstrations and tutorials began production and have remained a weekly staple of your Friday “edutainment” despite restructuring and priority changes of the team. This new institution stands as a model of consistency and achievement amid change. Now under the direction of Matt Romney, the tech tip is designed to deliver practical knowledge in a brief manner. Matt accepts requests and feedback ([mattromney@utah.gov](mailto:mattromney@utah.gov)) if there is some tech-know-how you’ve been itching to have revealed. Congratulations to the BIS team for achieving and sustaining this SMART goal.

Do you enjoy watching Youtube? Our own Youtube sensation is the weekly Techtip. Well--- maybe not quite a million hits and a viral following, but hey, give it some time. Many moons ago, the “Techtip of the Week” was nothing more than a clever notion spawned in an ODBIT Team meeting. With Ashley Nelsen, self-proclaimed ODBIT Girl, at the helm, a Youtube channel was released (you can subscribe to the BIS Channel at <http://www.youtube.com/channel/UCx-eYmHDJc9faTWXW8q69FrA>).



## Open Enrollment Ends on June 13, 2014

By: Debra Valentine, HR Consultant

While there are minimal changes to employee benefits this year, it is recommended that employees take a few minutes to review their current coverage even if he/she is not planning to make changes. To review your current choices and make changes, log into your PEHP account at [www.pehp.org](http://www.pehp.org). Two benefits that may require action on the employee’s part are:

- Flexible Spending Accounts: Open enrollment is the only time of year employees can elect to participate in flexible spending accounts. Even if an employee signed up in the past, he/she must enroll again.
- Hyatt Legal: This is a voluntary benefit that can be accessed only during open enrollment. If employees are currently in the plan, it will continue unless the employee actively terminates coverage.
- Short Term Disability Insurance (The Standard): While enrollment in STDI may occur at any time, employees may only cancel during open enrollment.



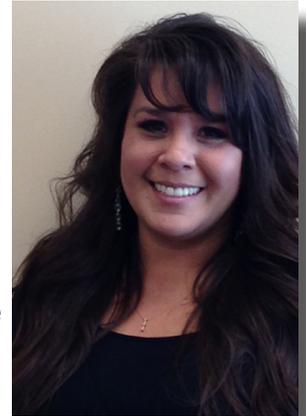


## DHRM Employee Spotlight



Cindy Bane is always dependable and reliable in completing her assignments and providing outstanding team support. She is very dedicated to making sure the office has exactly what they need both in office supplies and for New Employee Orientation. She is such a pleasant influence in the Tax HR office.

Tina Sweet was the project director for launching the improved employee gateway. This project had a quick turn-around time and she launched on-time and within budget. Tina dedicated many months to creating this enhanced tool to provide employees a more user friendly gateway to access HR information.



Karen Heaton took the initiative to figure out a way for hiring managers to schedule interviews on their side of State Jobs when NEOGov said that this couldn't be done. She also developed a step-by-step guide and template letters for other recruiters to use with their hiring managers. In doing this, she has saved time for both recruiters and agency hiring managers.



Debra Valentine coordinated with PEHP regarding Summary of Benefits and Coverage as well as organized the Benefit Fairs for 2014 Open Enrollment Season. This coordination mandates extensive knowledge of the Affordable Care Acts as well as general state benefits.

## 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

Editor in Chief: Debbie Cragun

### Newsletter Staff:

- Tammy Magee
- Sue Recupero
- Winston Inoway
- April Nicholls
- Chris Whipple
- Angela Kula