



**September 12, 2018: SuncoastHR's Employment Law & Legislative Conference**



Please join us for 4 CE Credits at SuncoastHR's Half Day Employment Law & Legislative Conference on September 12<sup>th</sup>, 2018

Let SuncoastHR introduce you to four local attorneys that will be your guide to the complex legal and legislative landscape that affects your organization. Find out from Hill Ward Henderson, Johnson Jackson, Ogletree Deakins, and Shumaker Loop, & Kendrick, what lies ahead for your workplace and get the information you need to protect your organization and manage risk. Each attorney and HR Exec will share their experience and what they learned from real case studies.

[www.suncoasthr.org](http://www.suncoasthr.org)

**Location** - Great Bay Distributors, 2750 Eagle Ave North, St. Petersburg, FL 33716

**Date** - Wednesday, September 12, 2018

**Time** - 12:30pm (Registration)

1:00pm -5:00pm (Program)

5:00pm -6:00pm (Happy Hour)

**Presenters:**



**Jennifer Compton**  
Shumaker, Loop & Kendrick  
<https://www.slk-law.com/Professionals/Jennifer-B-Compton?urlPrefix=../>



**William Grob**  
Ogletree Deakins  
<https://ogletree.com/people/william-e-grob>



**Erin Jackson**  
Johnson Jackson  
<http://www.johnsonjackson.com/attorneys/erin-jackson/>



**Kirsten Vignec**  
Hill Ward Henderson  
<https://www.hwlaw.com/legal-team/attorneys/attorney/Kirsten-L.-Vignec>

**Thank you to our September Meeting Sponsors**



Headquartered in Dallas and founded in 1979, BenefitMall is a national provider of employee benefits, payroll, HR and employer services.



PrideStaff was formed in 1978 in Fresno California and is a national franchised staffing firm. Locally, Matt and Amanda Becker opened the only PrideStaff office in the Tampa Bay area 4 years ago. PrideStaff is the only firm in the nation with over \$100 million in revenue to earn the coveted "Best of Staffing Diamond Award for both Client and Talent" for 5 consecutive years.



Merrill Lynch Wealth Management is an American wealth management division under the auspices of Bank of America. Along with Bank of America Merrill Lynch, the investment banking arm, both firms engage in prime brokerage and security dealings.



The Premier Document Imaging, Mobile Shredding & Record Storage Company in the Tampa Bay Area. BRM has been providing Records Management Services for over 40 years with a proven Records Management Program aimed to secure confidential information, reduce operating costs, and improve productivity.

**September 17<sup>th</sup>, 2018: Call for Volunteers**

Are you looking for a Volunteer opportunity? We are looking for volunteers to help with resume review at the Tampa Job Fair on Monday 9/17/18 at the Coliseum (535 4th Ave N, St Petersburg). We'd love volunteers to arrive by 9:45am and stay for any length of time they can spare. A boxed lunch will be provided by Tampa Bay Times for volunteers.

Please call Nadine Kostak (727-497-2389) with any questions!



Presented by Tampa Bay Times  
[www.tampabayjobfair.com](http://www.tampabayjobfair.com)

**Mon., Sept. 17, 2018 • The Coliseum  
535 4th Ave N, St. Petersburg, FL 33701**

**October 10, 2018 : Legislative Update**

**Don't miss this breakfast meeting with our own Bill Grob!**

## This Month's Legislative Update

### **DOL Wage-Hour Division Issues More Opinion Letters: One Addresses Whether Wellness Activities Constitute Compensable Time**

Submitted by Bill Grob, Suncoast Legislative Chair, Ogletree Deakins

Author: Alfred B. Robinson, Jr., Ogletree Deakins

On August 28, 2018, the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) released six opinion letters—four involving the Fair Labor Standards Act (FLSA) and two involving the Family and Medical Leave Act (FMLA). The four wage-and-hour opinion letters address the following topics:

FLSA2018-20: Whether time spent voluntarily by an employee participating in wellness activities, biometric screenings, and benefit fairs constituted compensable time.

FLSA2018-21: Whether an entity that sells a technology platform that processes credit card payments for online and retail merchants constitutes a retail or service establishment eligible for the section 7(i) exemption from overtime.

FLSA2018-22: Whether examination graders who grade credentialing examinations administered by a nonprofit entity qualify as volunteers.

FLSA2018-23: Whether food service operations that are functionally integrated with the operations of a motion picture theater are a single establishment for purposes of the motion theatre exemption from overtime in section 13(b)(27).

This article discusses Opinion Letter FLSA 2018-20 on the compensability of time employees spend on wellness activities.

Opinion Letter FLSA2018-20 is timely in that more and more employers are providing various wellness incentives as part of their medical insurance plans to promote healthier lifestyles and choices. Participation in such activities may result in lower health insurance deductibles, premiums, or both. The opinion letter describes examples of biometric screening tests to include testing for "cholesterol levels, blood pressure, and nicotine usage." Wellness activities noted in the opinion letter include, but are not limited to, attendance at a health education class on topics such as nutrition or diabetes, participation in an employer-sponsored gym class or use of an employer-provided gym, and participation in a weight-loss program. Opinion Letter FLSA2018-20 also notes that attendance at benefits fairs would educate employees about various benefits the employer provides, continuing education opportunities, and financial planning options.

The WHD reiterated that its analysis was only of activities in which participation was strictly voluntary: it was up to the employee to decide whether to participate or in which activity they may want to participate; none of these activities were related to an employee's orientation or job duties; and the employer did not derive a financial benefit if an employee participated in any activity.

Opinion Letter FLSA2018-20 briefly noted that the determination of whether time is compensable turns on whether the time is spent performing duties that benefit the employer or the employee. Relying on FLSA regulations, it further noted that compensable time did not include the time during which an employee is off duty or completely relieved of work responsibilities and able to use such time for his or her own purposes.

In light of the facts that participation was purely voluntary; an employee, if anyone, benefitted financially from participation; and participation enabled an employee to make better decisions about non-work-related matters, the WHD found that such wellness activities predominantly benefit an employee. Consequently, it concluded that participation in such activities did not constitute compensable time under the FLSA.

It also concluded that participation in these activities constitutes noncompensable off-duty time, as described in the regulations, because the employer is relieving an employee of his or her work responsibilities while participating in these wellness activities. In doing so, the letter notes that there is no indication that the employer restricts the amount of time for an employee's participation, and it assumes that the time increment is sufficiently long to enable an employee to use it for his or her own purposes.

Finally, Opinion Letter FLSA2018-20 states that its conclusion is the "same regardless of whether the activities occur on-site or during regular work hours."

#### **Key Takeaways**

Because opinion letters are fact-specific, before relying on the opinion letter, employers will want to verify that their wellness programs are comparable to the facts described in FLSA2018-20. For example, if participation in certain activities is mandatory or job related, then such time may be compensable. Similarly, if an employer restricts the amount of time an employee may engage in such activities during regular work hours, then it could convert such time to compensable work time. Nonetheless, Opinion Letter FLSA2018-20 is helpful guidance for employers and employees in differentiating among various circumstances when time spent on a variety of wellness activities can be excluded from an employee's compensable time.

---

## November 7, 2018 : Joint Suncoast HR & HR Tampa Diversity Breakfast Meeting

**Title Program:** Diversity & Inclusion - Bias in Decision Making  
**When:** Wednesday, November 7, 2018  
**Location:** Feather Sound Country Club  
2201 Feather Sound Dr,  
Clearwater, FL 33762  
**Registration:** 7:30 am  
**Program:** 8:00 am – 9:30 am



#### **Program Overview:**

This interactive workshop will focus on the question of Why Cultural Competency? Consider the first node of the cultural competence continuum and how to identify these tendencies while exposing and understanding that we all have bias. Cultural Competence is the ability to interact effectively with people of different cultures.

Cultural Competence comprises four components:

- Awareness of one's own cultural worldview
- Attitude towards cultural differences,
- Knowledge of different cultural practices and worldviews, and
- Cross-cultural skills

The workshop will build your understanding while providing tools to work through the bias and evolve along the continuum.

Members and Guest are welcomed – Register at: [www.suncoasthr.org](http://www.suncoasthr.org) or [www.hrtampa.org](http://www.hrtampa.org)

#### **Presenter:**



**Erik C. Smith, MBA.** is currently the Managing Member of Inclusivity, LLC (formerly Carlton Consulting, LLC), a cultural competence and marketing advisory firm based in Florida, specializing in Cultural Competence, Community Relations and Cross-cultural Marketing for both for profit and not for profit enterprises. Most recently Erik was the Cultural Competence and Inclusion Director at Valpak where he developed a cultural competency rubric to show how diversity, coupled with inclusion, creates opportunities for innovation, drives revenue and enhances recruitment, retention and professional development of employees and suppliers. Erik's educational background consists of a Master's in Business Administration from Case Western Reserve University and a Bachelor of Arts from Duke University.



### World At Work (WAW) : Regulatory Class

Suncoast Human Resources Management Association is sponsoring a World at Work Certification course in November. The course is required for the Certified Compensation Professional (CCP) certification.

The course will be held at PSCU in Carillon Office Park (near Raymond James) in St. Petersburg.

**Regulatory Environments for Compensation Programs (C1)**

Class dates are Monday and Tuesday - November 5 and 6, 2018.  
Learn the U.S. Federal Requirements All Compensation Professionals Should Know

Human resources professionals are challenged with understanding and staying current with U.S. Federal regulations. This basic-level course presents an overview of the regulatory requirements for compensation programs. You'll cover the major federal statutes that affect compensation design and practice.

- Analyze the labor regulations that focus on either a specific type of employer or have been utilized in compensation disputes
- Examine the many issues related to FLSA, including record-keeping requirements and potential penalties
- Explore discrimination legislation relating to compensation This course is part of the CCP certification.

This course counts for 16 classroom hours for HRCI and SHRM recertification.

Here is the registration link for the course: [www.worldatwork.org/suncoast-hr](http://www.worldatwork.org/suncoast-hr)

Or contact - Will Rives at [WorldatWork@SuncoastHR.org](mailto:WorldatWork@SuncoastHR.org)

**Note: Significant discounts are available to WorldatWork members. See the WorldatWork registration link (above) page for details.**

**GET INVOLVED!**  
**SUNCOAST MEMBERSHIP DETAILS**

At SuncoastHR we continually strive to improve our programming and offerings to membership.



For membership information please visit: <http://www.suncoasthr.org/membership-types.html>

## 2018 HR TAMPA CONFERENCE



**Taking Care of Business!**  
October 12, 2018  
USF Marshall Center, Tampa, FL

**UP TO 10 CREDITS**

**HR...from the Backroom to the Boardroom**  
This informative event will provide developmental and networking opportunities for all business leaders and HR professionals.

*featuring*  
**KEYNOTE SPEAKERS**



Sharlyn Lauby, SPHR  
The HR Bartender



Debbie Lundberg  
Presenting Powerfully

Rates: Early Bird Rates expire July 31, 2018

- Premium: \$0 included with membership (must register)
- Basic Members: Early Bird \$99 - Reg price \$125
- Guests: Early Bird \$149 - Reg price \$199
- Group of 4 or more: Early Bird \$99 per person - Reg \$125

**WWW.HRTAMPACONFERENCE.ORG**  
**#HRTPA18**

Speakers Sponsors:  

Platinum: 

Gold: 

Silver Sponsors:  

**Thank you to our Event Sponsors!**

 

Like Us, Join Us, Follow Us!



Visit: <http://www.suncoasthr.org>