



Arizona Industry Liaison Group Affiliate

October 2011

# Quad A News

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In an August 2011 SHRM electronic article titled "**Study Cites Diversity Progress, Barrier**," Rebecca Hastings, SPHR writes of a Forbes Insight study called **Fostering Innovation Through a Diverse Workforce** released on July 14, 2011. The Study reported that the

respondents had reported achieving significant progress as well as encountering certain barriers as they tried to develop and implement D & I initiatives.

Most respondents cited gender diversity as the area in which they feel they had made the most progress with the areas of disability and age topping the areas needing the most improvement. The executives who responded said they saw a number of barriers that could negatively impact their organizations' ability to develop or implement D & I strategies with 46% listing a middle management that fails to adequately execute diversity programs.

The report is based on the insights from 300+ executives and managers, working at global enterprises with revenues of \$500+ million, who had direct responsibility or oversight for their organization's Diversity and Inclusion programs. To read more of the SHRM article, including the areas in which respondents felt they had made the most progress and those are that most needed improvement, click here:

<http://www.shrm.org/hrdisciplines/Diversity/Articles/Pages/StudyCitesDiversityProgress.aspx>

## October Member Meeting

### *Best Practices: Diversity — Not Why, But How*

**DATE:** October 11, 2011

**TIME:** 8:30-10:00 a.m.

**LOCATION:** Sundt (Los Alamos Room)

2620 South 55th Street, Tempe, AZ

*Please RSVP to [azquada@aol.com](mailto:azquada@aol.com) by Oct 7.*

# **14th Annual Compliance Conference**

## **November 15, 2011**

**Desert Willow Conference Center**  
**4340 E Cotton Center #100, Phoenix**



**6.0 HRCI Credits Pending**

**Watch for upcoming details  
on topics & speakers**

***Register online at [www.azquada.org](http://www.azquada.org)***

**OR**

***Use the registration form below if paying by check***

**\$100      *Current 2011 Members***

**\$175      *Nonmembers (Includes 2012 Membership)***

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Organization: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State & Zip: \_\_\_\_\_

*Please make checks payable to Arizona Affirmative Action Association and mail together with registration form to: AAAA, P. O. Box 1848, Phoenix, AZ 85001. For further information, check our website at [www.azquada.org](http://www.azquada.org) or contact us at [azquada@aol.com](mailto:azquada@aol.com) or call Chris Weakland, 602-377-0404 or John Garza, 602-300-2023. Please advise us if you require special dietary or physical accommodations.*

***“Diversity at Work:  
Why Haven’t We Made  
More Progress?”***

**by Kim Cromwell,  
Cromwell Consulting**

For many businesses, it’s a disappointing and unfortunate conclusion: *Organizational diversity efforts have not made the progress that so many thought would be achieved by now.* Understanding *why* U.S. organizations have not made more diversity progress is complex and deserves further exploration if we wish to remove the barriers. The bottom line? To maximize the impact of organizational diversity efforts, diversity work must be woven directly into our organizations’ people strategies and the way we manage our businesses.

***A Brief History: The Early Days***

Company diversity efforts were driven in the ‘70’s and early ‘80’s primarily by Equal Employment Opportunity/Affirmative Action (EEO/AA) law. For instance, EEO/AA law and subsequent diversity efforts focused on a subset of the population, requiring employers to increase the presence of under-represented groups in their workforce.

The scope of corporate diversity work expanded in the late ‘80s, at which time employers realized that *hiring a more diverse group* wasn’t enough; *figuring out how to effectively work together* was the bigger challenge and education about differences was introduced. While heeding the law was mandatory, this “extra effort,” which focused on diversity training and interpersonal learning, was optional, frequently not tied to the business, and often not as effective as leaders intended. While there were a few success stories, there were many cases in which participants either did not know why they were there or weren’t able to apply what they had learned back on the job because their corporate culture did not reinforce components of the education they had received.

***Evolving Diversity Practices: The Past Decade***

Increasingly, over the past decade, organizations have taken a more comprehensive view of diversity issues, not simply completing diversity training, then “checking the box” as if the work was done but, rather, looking at how the issue of diversity impacts our ability to achieve our mission and enhance our bottom-line.

Some organizations sought to understand the business rationale behind doing this work, and stopped there, unsure of what to do next. At the other end of the continuum, some leaders learned that attending to diversity issues could differentiate their organization as an employer, vendor, or service provider – and took action. Diversity was examined in the context of not only the business case but also the people dimension of the business strategy, which, in turn, has an impact on both the workforce and its customers.

***Workforce Diversity Barriers to Progress***

Looking at the evolution of diversity work from a distance, one might expect to see this century’s organizations enthusiastically embracing a diverse workforce. After all, if you assume talent is found in people of all differences, then it makes sense that people of all differences would be sought after, developed, and tapped for their fullest contribution to the organization. One might expect to have seen more diversity at the senior levels of organizations, as well as a workplace culture that actually draws upon the talents of all – old and young, men and women, people of color, whites, lesbians, gay men, transgender people, Jews, Muslims, Christians, atheists, and etc.

But reality has revealed that diversity progress is slow. For example, of *Fortune’s* top [500] companies, only [15] are led by women. In some cases, diversity has been re-cast by organizational leaders as not essential to business success, unachievable, and to be shelved as a “nice-to-do” during better economic times. Unless organizations commit to building a sustainable people strategy with diversity as a core compo-

# *Speaker Profiles*



## ***Bob Enderle***

***Director, Diversity & Community Relations  
Medtronic Tempe Campus***

In addition to his role as Director, Diversity & Community Relations for Medtronic, Bob Enderle also serves as Organizational Development Strategist consulting with both the local and global Medtronic business units on organization development, leadership development, coaching, talent management and diversity & inclusion initiatives.

Bob has been recognized for his efforts with numerous Medtronic awards, including the CEO Inclusion Award. Previous employers include Bell Laboratories, Celanese Corporation, General Instrument Corporation, Microchip Technology and Murro Consulting, where he served in a number of Human Resources leadership positions.

He has facilitated graduate and undergraduate business courses at the University of Phoenix since 1991. He is the recipient of the John G. Sperling "Distinguished Faculty Award".

Bob is also involved in the community, where his activities include serving on the Greater Phoenix Economic Council (GPEC) Executive Committee and Board of Directors and Board of Directors, Diversity Leadership Alliance. Previous work includes Chair, Tempe Chamber of Commerce and Board of Directors, Arizona Business and Education Committee (ABEC). He holds an MBA from Loyola University of Chicago. He previously received his B.A., Political Science from Benedictine University. He is a native of south-east Missouri.

## **MARK YOUR CALENDAR**

**to attend Quad A's**

**14th Annual Compliance Conference**

**November 15, 2011**

***Registration enclosed***

***Watch for upcoming details on Agenda and Speakers***

## *Speaker Profiles (Continued)*



***Christine French, MTI***  
***President, Global Diversity Consulting***

Christine is an author, speaker, workshops designer and facilitator of leadership and multicultural topics to help organizations be successful in this constant changing world. She founded Global Diversity Consulting, a woman owned company with more than 20 years of experience in global business. Her mission is to validate, educate and motivate all people with whom she interacts. In this role Christine helps organizations work effectively together to achieve their business goals.

Christine partners with business leaders to create diversity strategies, charters and manages U.S. Diversity Councils, and supports the Global Diversity Councils in Asia, Europe, Latin America, South Africa, and Canada. Christine has managed the activities of 62 Global Employee Resource Network chapters and Diversity Teams, and pioneered gender-specific network chapters outside of the U.S. Also, she worked with team members from several countries worldwide in the areas of diversity, external education, new product marketing, and communications.

In addition, Christine chartered the Diversity Leadership Alliance (DLA), a non-profit organization providing diversity education to the citizens of Arizona. DLA vision is to be an inclusive community where every individual is equally respected and empowered.

With Certifications in “Resolving Workplace Conflict” with Mediation Training Institute International, Christine’s expertise includes:

- Executive Coaching
- Conflict resolution in multicultural settings
- Moving diversity from awareness to integration
- Designing and delivering workshops on multicultural business protocols and global communications
- Facilitating change management strategies, including providing training and leadership coaching
- Managing globally dispersed teams and building high-performing teams
- Designing and delivering learning programs on diversity and cultural competency

She has co-authored the books: “Working Effectively with Others Without Hiring a HIT-MAN!”, and “Discovering the Gifts Within”. They are available on:

***[www.globaldiversityconsulting.com](http://www.globaldiversityconsulting.com)***



## Speaker Profiles (Continued)



### **Julio Herrera**

**Director of Multi-Cultural Markets**

**Cox Communications  
Arizona**

Julio Herrera joined Cox Communications in 2005. In his current role he serves as

the Director of Multicultural Markets, he has primary responsibility for coordinating all aspects of multi-cultural market growth and customer experience. His key priority is executing the holistic multicultural business strategy, and improving operations for multicultural markets to conduct business with Cox Arizona.

Prior to this role Herrera was the Bilingual Customer Care Manager, where he led the company's bilingual customer support team, Cox Internacional. Herrera has grown the Cox Internacional department, that fields calls from bilingual customers, by 250 percent since 2006.

Herrera also helped establish LIDER, a frontline leadership program tailored for Hispanic team members looking for advancement opportunities. In addition, Herrera developed Latino Linx, a channel geared toward the education of Hispanic employees.

Prior to joining Cox Herrera previous experience includes serving as the East Group Regional Sales Manager for Waste Management Inc., as well as managing positions at MCI in Arizona and New Mexico.

Herrera currently serves in Valle del Sol's Board of Directors, Arizona Hispanic Chamber of Commerce Board of Directors and is a Hispanic Leadership Institute alumnus. In 2008, he was recognized by the Arizona Hispanic Chamber of Com-

merce as one of the 40 Hispanic Leaders Under 40. He also received the Phoenix Business Journal's 40 under 40 award in 2010.

### **From the Desk of... USDOL**



### **Tyson Fresh Meats to pay \$2.25 million to settle sex discrimination cases**

***More than 1,650 qualified female applicants  
denied jobs at 4 Midwest plants***

**9-20-11 WASHINGTON** – The U.S. Department of Labor's Office of Federal Contract Compliance Programs announced that Tyson Fresh Meats Inc. has entered into two consent decrees to settle allegations of sex discrimination. The Dakota Dunes, S.D.-based company will pay a total of \$2.25 million in back wages, interest and benefits to more than 1,650 qualified female job applicants who were rejected for employment at facilities in Joslin, Ill.; West Point, Neb.; and Waterloo and Denison, Iowa. Tyson Fresh Meats is a subsidiary of Springdale, Ark.-based Tyson Foods Inc., a federal contractor and one of the world's largest processors of beef and pork.

"Companies that profit from federal contracts must not discriminate in employment decisions," said Secretary of Labor Hilda L. Solis. *(Continued on Pg 8)*

nent, we cannot expect significant progress.

***What are the barriers to making diversity an imperative?***

***1) Most organizations have not taken the time to adequately understand how diversity impacts their bottom line,*** and therefore fail to recognize diversity as a competitive advantage, particularly as an employer. While customer demographics are commonly researched and applied to business practices, workforce differences rarely examined as closely and often misunderstood. Consumer buying among people of color nearly doubled over the last decade, rising at a rate much faster than overall U.S. buying power, according to the Selig Center for Growth at the University of Georgia. Hiring a workforce that mirrors the diversity of its customers can have a powerful impact on understanding the needs of those customers.

***2) Many organizations focus on short-term survival in this challenging economy, failing to see diversity as a critical priority.*** Creating and managing a diverse workforce is perceived as one more thing to do *outside* of the scope of the business. Diversity is treated as programmatic rather than integral to the organization's priorities. Imagine, however, if 100% of the workforce were contributing 100% and then some. Removing barriers to their contributions would make a significant impact on short- and long-term organizational success.

***3) Organizational leaders act as if a meritocracy exists, believing that talent will rise to the top.*** It's easier to increase racial diversity at lower levels simply by changing hiring practices, for instance. This action can also give the illusion of substantive progress. More complicated, but necessary, is an examination of all people practices – from sourcing to development, how projects or accounts are assigned, what competencies are rewarded, and why people stay with or leave the organization.

***4) Responsibility for diversity leadership is delegated to a staff member, and is not treated with the same discipline, measurement and accountability as***

***other business initiatives.*** Initiatives focused on quality have the same challenge. You can't simultaneously say diversity is central to the business, while treating it as peripheral, and expect it to have a strong impact. Staff can play an important role, but ownership must reside with the decision-makers. Some organizations make the mistake of assigning someone responsibility for workforce diversity issues solely because of their racial or ethnic identity, rather than looking closely at the competencies required for the role and the person best suited to fit it. This does everyone a disservice.

***5) We continue to be more comfortable with people like ourselves.*** When the going gets tough at work and we need to pull someone in to help with the project, or when it's time to grab lunch with a colleague, we are often inclined to reach out to someone whose life experience is more similar to our own. Less effort is required when I can speak in short-hand and can readily depend on people with whom I have more in common. The flip side of this issue for minority groups is that they might not naturally find sponsors in the majority power structure of the organization.

**AN INVITATION**

Quad A's Board of Directors is extending an invitation to law firms who are willing to provide pro bono work for the Association. The successful candidate will be appointed to a two-year seat. To be considered for the position of Legal Counsel on Quad A/Arizona ILC Board of Directors, please contact Quad A President John Garza at [jgquada@aol.com](mailto:jgquada@aol.com) 602-300-2023

**6) Rather than work collaboratively, different groups continue to compete with one another.** Underrepresented groups within organizations frequently compete with others for scarce resources. Rather than work collectively to bring about change, we often struggle with one another. Imagine the momentum we would build if we could truly work together. Beyond that, imagine the momentum we could build by stepping outside of our own group identities – where we might see men leading the battle against sexism, whites against racism, heterosexuals against heterosexism, and so on.

**7) We don't give one another honest performance feedback.** While it's difficult to give developmental feedback to anyone, it can be even more difficult to give feedback to someone of another gender, race or culture – for fear of being misunderstood. Whatever the reason, this lack of information often sidetracks careers, particularly for those who don't receive performance feedback because the deliverer of that feedback fears being seen as racist or sexist and thus chooses not to give feedback at all.

**8) We are too internally focused.** There are diversity battles being fought in U.S. legal courts daily, many of which will impact workforce practices in the future. Courts increasingly see challenges by majority groups (whites and heterosexuals, for example) seeking to gain or limit access to resources: anti-affirmative action challenges in the schools; laws proposed to deny gays and lesbians the right to marry. [2010] census data shows that the U.S. Latino population grew 43% over the past decade [and 56% between 2000-2010], while only disproportionate numbers of Hispanic girls remain in school – an example of a “feeder pool” for talent that will dry up if not tended to. External forces play a critical role in shaping the future issues that will face employers.

Whether you believe diversity progress is more impacted by the carrot (e.g., access to potential business opportunities and increased market share) or the stick (e.g., laws to ensure fair treatment) there is no doubt that we face continued challenges ahead, to realizing diversity progress. ♦

## ***From the Desk of... USDOL***



“Today’s settlement, one of the largest in OFCCP’s history, means that women who were unfairly denied job opportunities will be compensated.”

During scheduled compliance reviews of the four facilities, OFCCP determined that Tyson Fresh Meats had violated Executive Order 11246, which prohibits federal contractors from discriminating on the basis of sex. Under the terms of the decrees, the \$2.25 million settlement will be divided among the rejected female job applicants. Tyson also has agreed to offer jobs to at least 220 of the affected women as positions become available in Joslin, Waterloo and Denison. The West Point plant closed in 2006. Finally, Tyson will undertake extensive self-monitoring and corrective measures to ensure that its employment practices fully comply with the law.

These consent decrees resolve the latest lawsuits in a string of cases brought by OFCCP against subsidiaries of Tyson Foods Inc. In 2008, a Labor Department administrative law judge found that TNT Crust in Green Bay, Wis., systematically had discriminated against Latino applicants in its entry-level position hiring. Last year, OFCCP settled a case against Tyson Refrigerated Processed Meats after finding evidence that the company had discriminated against 157 African-American and 375 Caucasian job applicants at the company’s bacon processing plant in Vernon, Texas.

“A year after filing suit, the Labor Department has made good on a promise to those job seekers who were denied the opportunity to work simply because they are women,” said OFCCP Director Patricia A. Shiu. “We will remain vigilant, particularly



with a serial offender like Tyson, to protect the rights of workers who can and should expect basic fairness from a company that profits mightily from doing business with the federal government."

Tyson Foods Inc. has received federal contracts totaling more than \$200 million in each of the past three years and recently was awarded another \$8 million contract to provide beef and pork products for resale at two commissary stores in Guam. The company is a major supplier for the U.S. Departments of Defense and Agriculture, and is one of the largest employers in Joslin, Waterloo and Denison. ♦



### **US Department of Labor finds Bank of America in violation of Sarbanes-Oxley Act whistleblower protection provisions**

***Bank ordered to reinstate fired employee  
and pay \$930,000***

**9-14-11 SAN FRANCISCO** — The U.S. Department of Labor's Occupational Safety and Health Administration has found Charlotte, N.C.-based Bank of America Corp. in violation of the whistleblower protection provisions of the Sarbanes-Oxley Act for improperly firing an employee. The bank has been ordered to reinstate and pay the employee approximately \$930,000, which includes back wages, interest, compensatory damages and attorney fees. The findings follow an investigation by OSHA's San Francisco Regional Office, which was initiated after receiving a complaint from the Los Angeles-area employee.

"It's clear from our investigation that Bank of America used illegal retaliatory tactics against this employee," said OSHA Assistant Secretary Dr. David Michaels. "This employee showed great courage reporting potential fraud and standing up for the rights of other employees to do the same."

The employee originally worked for Countrywide Financial Corp., which merged with Bank of America in July 2008. The employee led internal investigations that revealed widespread and pervasive wire, mail and bank fraud involving Countrywide employees. The employee alleged that those who attempted to report fraud to Countrywide's Employee Relations Department suffered persistent retaliation. The employee was fired shortly after the merger.

"Whistleblowers play a vital role in ensuring the integrity of our financial system, as well as the safety of our food, air, water, workplaces and transportation systems," added Michaels. "This case highlights the importance of defending employees against retaliation when they try to protect the public from the consequences of an employer's illegal activities."

Both the complainant and Bank of America can appeal the monetary damages to the Labor Department's Office of Administrative Law Judges within 30 days of receiving the findings.

OSHA enforces the whistleblower provisions of the Sarbanes-Oxley Act and 20 other statutes protecting employees who report violations of various airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health care reform, nuclear, pipeline, public transportation agency, railroad and maritime laws. Under these laws enacted by Congress, employers are prohibited from retaliating against employees who raise various protected concerns or provide protected information to the em-

ployer or to the government. Employees who believe that they have been retaliated against for engaging in protected conduct may file a complaint with the secretary of labor to request an investigation by OSHA's Whistleblower Protection Program. Detailed information on employee whistleblower rights, including fact sheets, is available at:

<http://www.whistleblowers.gov>.



## ***The American Jobs Act***

**9-9-11 WASHINGTON, DC** To create jobs, President Obama unveiled the American Jobs Act – nearly all of which is made up of ideas that have been supported by both political parties, and that Congress should pass right away to get the economy moving now. The purpose of the American Jobs Act is simple: put more people back to work and put more money in the pockets of working Americans. And it would do so without adding a dime to the deficit. The U.S. Department of Labor has a major role. Learn more and read the speech.

[Read the President's Speech](#)

## ***From the Desk of... EEOC***



ITT Technical Institute **ITT**  
EDUCATION FOR THE FUTURE.

### **EEOC Sues ITT Tech For Disability Discrimination**

*Blind Applicant Denied Accommodation in Hiring  
Process, Federal Agency Charges*

**9-21-11 SACRAMENTO** – A national for-profit educational provider, ITT Technical Institutes, violated federal law when it refused to accommodate a blind applicant during the hiring process and denied him a job, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit filed today.

Kerry Kirksey applied for work as an educational recruiter at ITT Tech's Rancho Cordova, Calif., site and was required to take a timed on-line assessment as part of the application process. He knew the answers to the questions, but his screen-reading software was too slow and would not enable him to complete the assessment on time. According to the EEOC, Kirksey contacted ITT Tech, explained that he is blind, requested a reasonable accommodation in the assessment process and suggested accommodations of a reader or additional time. ITT Tech said there was nothing they could do, said the EEOC. The EEOC learned through its investigation that Kirksey's job developer also tried to advocate for him, but received the same response, even after explaining that denying a reasonable accommodation is against the law.

The EEOC filed the lawsuit (*EEOC v.*

*"I was really shocked and surprised when ITT Tech would not provide an accommodation," said Kirksey. "It would have cost them nothing to comply with the law. I had received computer training from a school like ITT Tech and worked in the computer industry for five years, so I was excited by the opportunity to help other people discover the benefits of this kind of school."*

ITT Educational Services, Inc. dba ITT Technical Institutes) in U.S. District Court for the Eastern District of California after first attempting to reach a voluntary settlement through its conciliation process. The suit seeks monetary damages, including back pay, compensation for emotional distress and punitive damages. The EEOC also seeks an injunction prohibiting further discrimination by ITT Tech and mandating corrective action.

"The ADA clearly requires employers to provide accommodations to disabled applicants who need them during the hiring process and specifically addresses the area of testing," said EEOC Regional Attorney William R. Tamayo. "In this case, a simple accommodation of additional time or a reader would have enabled Mr. Kirksey to complete the application process and would not have cost a dime. There really is no reason ITT Tech should have denied the accommodation."

EEOC San Francisco District Director Michael Baldonado added, "Employers are increasingly relying on the Internet as part of their hiring process. They need to be mindful of how the application process might impose barriers for people with disabilities. When alerted that an applicant needs an accommodation, they must act and provide one unless doing so would cause an undue hardship."



## **Bass Pro Failed to Hire Blacks and Hispanics at its Stores Nationwide, EEOC Says in Suit**

*Retailer Also Retaliated Against Employees Who Opposed Discrimination, and Destroyed Records, Federal Agency Charges*

**9-21-11 HOUSTON** -- Bass Pro Outdoor World, LLC (Bass Pro), a nationwide retailer of sporting goods, apparel, and other miscellaneous products, engaged in a pattern or practice of failing to hire African-American and Hispanic applicants for positions in its retail stores nationwide, and retaliated against employees who opposed the discriminatory practices, the U.S. Equal Employment Opportunity Commission (EEOC) alleged in a lawsuit filed today.

According to the EEOC's suit filed in U.S. District Court for the Southern District of Texas, Houston Division (Civil Action No. 4:11-CV-3425), Bass Pro has been discriminating in its hiring since at least November 2005. The EEOC's suit alleges that qualified African-Americans and Hispanics were routinely denied retail positions such as cashier, sales associate, team leader, supervisor, manager and other positions at many Bass Pro stores nationwide.

The lawsuit alleges that managers at Bass Pro stores in the Houston area, in Louisiana, and elsewhere made overtly racially derogatory remarks acknowledging the discriminatory practices, including that hiring black candidates did not fit the corporate profile.

*“Excluding qualified individuals from employment because of their race or ethnicity or in retaliation for exercising protected rights are fundamental violations of the laws we enforce,” said Jacqueline A. Bervien, Chair of the EEOC. “The EEOC will diligently protect the rights of job applicants to ensure that hiring decisions are based on abilities, not on race or ethnicity.”*

The lawsuit also claims that Bass Pro unlawfully destroyed or failed to keep records and documents related to employment applications and internal discrimination complaints. Bass Pro punished employees who opposed the company’s unlawful practices, in some instances firing them or forcing them to resign.

All this alleged behavior violates Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on race and national origin, and prohibits employers from retaliating against employees who complain about employment discrimination and requires them to keep certain employment records.

“As a law enforcement agency, the EEOC is uniquely positioned to challenge systemic hiring discrimination,” said P. David Lopez, General Counsel of the EEOC. “It is unlawful for employers to deny jobs to applicants based on their race or national origin and the EEOC will vigorously pursue such cases and require companies to reform their hiring practices and make victims of the discrimination whole.”

The EEOC’s administrative investigation culminated in findings of class-wide hiring discrimination based on statistical and anecdotal evidence, and retaliation. The EEOC attempted to reach a voluntary settlement with Bass Pro before filing suit.

The lawsuit seeks a permanent injunction prohibiting Bass Pro from engaging in race discrimination, national origin discrimination, retaliation, and improper record destruction. It also seeks back pay on behalf of victims of hiring discrimination and/or retaliation, compensatory and punitive damages and other relief, including implementing fair recruitment and hiring procedures, and reinstatement or rightful-place hiring of mistreated job applicants and former employees.

*“We will hold employers accountable for depriving qualified minority workers of good jobs simply because of their race or national origin,” said EEOC Houston Regional Attorney Jim Sacher. “Such behavior is always out of season.”*

Added R.J. Ruff, director of the EEOC’s Houston District Office, “Bass Pro compounded its harm by retaliating against those who stood up to the discrimination and by destroying documents. The EEOC takes allegations of retaliation and document destruction very seriously and will pursue them with the same intensity as the allegations of hiring discrimination.”

Individuals who believe they may have been denied a position at Bass Pro because of their race (African-American or black) or ethnicity (Hispanic or Latino) or who have any information that would be helpful to the EEOC’s suit against Bass Pro should contact the EEOC toll free at (855) 857-8747 or by e-mail at

[Basspro.lawsuit@eeoc.gov](mailto:Basspro.lawsuit@eeoc.gov).





## **Lowe's Home Centers To Pay \$120,000 To Settle EEOC Religious Bias And Retaliation Lawsuit**

*Morristown Employee Denied Sabbath  
Accommodation, Federal Agency Charged*

**9-21-11 NASHVILLE** – Lowe's Home Centers, Inc. will pay \$120,000 and provide other relief in a settlement of a religious discrimination and retaliation lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today.

The EEOC's suit (Civil Action No. 2:10-cv-00063), filed in U.S. District Court for the Eastern District of Tennessee, charged that Lowe's violated federal law when it refused to reasonably accommodate the sincerely held religious belief of an employee at its Morristown, Tenn., store. The worker had requested being excused from working on the Christian Sabbath. Instead, the EEOC said, the company retaliated against him when it scheduled him to work on the Sabbath for 27 out of 28 weeks.

Refusing to provide a reasonable accommodation for a sincerely held religious belief, absent undue hardship, and retaliating against an employee who makes such a request violate Title VII of the Civil Rights Act of 1964. The EEOC filed suit in U.S. District Court for the Eastern District of Tennessee after first attempting to reach a pre-litigation settlement through the conciliation process.

Besides providing monetary relief, the three-year consent decree signed by Senior District Judge Leon Jordan on September 20, 2011, enjoins Lowe's from any future refusal to accommodate the sincerely held religious beliefs of its employees or retaliating against any employee for requesting a religious accommodation. The decree provides that Lowe's will make an addendum to its human resource management guide. In addition, Lowe's will provide employment discrimination awareness training to its store managers, assistant managers, and human resource managers in the East Tennessee area, and post a notice regarding the settlement.

The employee initially denied the reasonable accommodation now works in a position that does not require him to work on his Sabbath.

*"This settlement ensures that this employee will continue to receive the accommodation he should have been granted to begin with, and that managers and human resource personnel understand their obligations under the law," said EEOC Regional Attorney Faye A. Williams.*



## **Supercuts Settles EEOC Religious Discrimination and Retaliation Lawsuit**

*\$43,500 for Hair Stylist Fired For Refusing  
to Work on Sabbath*

**9-14-11 OAKLAND, CA** - Salon chain Supercuts has agreed to pay \$43,500 and to implement preventive measures to settle a

religious accommodation and retaliation lawsuit, the U.S. Equal Employment Opportunity Commission (EEOC) announced today.

According to the EEOC, Carolyn Sedar had been employed as a stylist and shift manager for Supercuts in Pleasant Hill, Calif. Since 1999, store managers accommodated her observance of her Christian Sabbath by permitting her not to work on Sundays until November 2008, when a new store manager scheduled Sedar for a Sunday shift. Despite written and oral requests to managers informing them that she could not work on her Sabbath, Supercuts refused to excuse Sedar and terminated her after she refused to work on two consecutive Sundays.

Title VII of the Civil Rights Act of 1964 requires employers to accommodate the sincerely held religious beliefs of employees, as long as the accommodations are reasonable and do not create an undue hardship. The law also prohibits retaliation against employees.

The court-approved consent decree in this case provides, among other things, training of managers and employees about religious accommodation under Title VII, providing reports to the EEOC of all requests for religious accommodation at a number of its salons, and posting a notice at the salons addressing religious accommodation in the workplace.

San Francisco Regional Attorney William R. Tamayo noted, "No one should be forced to choose between sincerely held religious beliefs and a job. This settlement allows Ms. Sedar to move on with her life, and the training provisions in the decree will hopefully prevent such problems from arising in the future."

*Supercuts is owned by Regis Corporation (NYSE:RGS), which operates salons worldwide under the trade names Super-*

*cuts, Regis Salons, MasterCuts, Smart-Style, Cost Cutters and Sassoon.*

*"When there is a conflict between religion and workplace practices, solutions can often be low or no cost, if you approach it flexibly and creatively," said San Francisco District Office Director, Michael Baldonado.*

*"Don't leave your supervisors and management in doubt about how to respond to a request for accommodation. Make it clear that failing to accommodate sincerely held religious beliefs may put the company in violation of the law."*



## **EEOC Sues the Scooter Store for Disability Discrimination**

*Farmingdale Store Refused Leave of Absence for Employee With Knee Injury, Then Fired Him*

**9-2-11 NEW YORK** -- The Scooter Store, a nationwide, Texas-based retailer, violated federal law when it refused to accommodate an employee's request for a temporary leave of absence due to a knee injury and then fired him from its store in Farmingdale, N.Y., the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed this week.

The EEOC's lawsuit, Civil Action No. 1:11-04226-AAR-VVP, filed in U.S. District Court for the Eastern District of New York, alleges that The Scooter Store failed to accommodate an employee's request for a reasonable accommodation for his disability, psoriatic arthritis, after he sustained a

knee injury that required a temporary absence from work. The EEOC's suit states that the employee timely informed the company he was incapacitated until further notice and that he required a leave of absence to seek treatment for his disability. However, The Scooter Store refused his request and instead fired him, purportedly for job abandonment, although he had presented medical documentation.

Disability discrimination, including the failure to reasonably accommodate an employee's disability, violates the Americans With Disabilities Act (ADA). The EEOC filed suit after first attempting to reach a pre-litigation settlement through its conciliation process. The agency seeks monetary relief for the employee, the adoption of strong policies and procedures to remedy and prevent disability discrimination, training on discrimination for its managers and employees, and other relief.

"Granting a temporary leave of absence to this employee would have posed no undue hardship on this company and would have allowed the employee to recuperate and return to work," said Adela Santos, trial attorney in the EEOC's New York District Office.

*Elizabeth Grossman, regional attorney for the EEOC's New York District, added, "Employers are obligated to engage in an interactive process with employees and provide reasonable accommodations for their disabilities. Refusing to even consider an employee's request for a reasonable accommodation is tantamount to a clear violation of the ADA."*



## **Investigation leads to restoration of job and pay for Walmart employee**

***Wage and Hour Division alleged violation of Family and Medical Leave Act***

**9-22-11 SAVANNAH, Ga.** -- As a result of an investigation by the U.S. Department of Labor's Wage and Hour Division, Wal-Mart Stores Inc. has reversed local management's decision to terminate an employee at its store in Douglas. After the Labor Department raised allegations that the termination violated the Family and Medical Leave Act, the store reinstated the employee, paid her \$20,899 in back wages, restored all benefits and bonuses, and deleted all negative references to unexcused absences from her personnel record.

The employee was terminated after she asked for leave to care for her minor child who had a serious health condition. Local management failed to recognize this situation as an FMLA-qualifying event and fired her for excessive unexcused absences.

"The Family and Medical Leave Act allows for workplace flexibility while protecting an employee's job," said Oliver Peebles III, regional administrator for the Wage and Hour Division in the Southeast.

In addition to rectifying this situation, the company has agreed to explore methods of improving communication between various store departments and human resources to prevent future violations.

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance and other benefits under the same terms and conditions as if the employee had not taken leave.

# 2011 Membership Application

Thank you for your continuing interest in and support of the Arizona Affirmative Action Association (Quad A). Our members include professionals in the fields of human resource management, equal employment opportunity, affirmative action, workplace diversity and other related fields. For over 35 years, Quad A has been providing its members with quality, up-to-date information through workshops, seminars and conferences. Your membership entitles you to a monthly newsletter, quarterly meetings/workshops, seminars, the Annual Conference (in April) and Compliance Conference (in the fall). Most activities are included in your membership; others are offered at a substantial discount. At only \$75 per year (Jan-Dec), membership in Quad A is a true value for the money. *(Individual memberships only; no organizational memberships at this time.)*

Goals of the Arizona Affirmative Action Association are to:

- Promote equal employment opportunity, diversity and affirmative action in the workplace.
- Promote awareness and recognition in the workplace and the community of the benefits of taking affirmative action to provide equal employment opportunities
- Share and disseminate up-to-date information on EEO, AA and diversity issues, legislation, judicial decisions, best practices and trends.
- Provide an opportunity for professionals interested in EEO, AA and diversity issues to network and communicate.

*Quad A is a nonprofit 501(c)3 organization (TIN 86-0966437).*

***Membership applications/renewals can be made  
online at [www.azquada.org](http://www.azquada.org).***

*If paying by check, please return this renewal form along with a check or credit card for \$75 made payable to Arizona Affirmative Action Association to our office at P.O. Box 1848, Phoenix, AZ 85001.*

## MEMBERSHIP APPLICATION/RENEWAL

Member Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail (for member communications only): \_\_\_\_\_



**Arizona Affirmative  
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(aka) "Quad A"**

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**We're on the Web!**  
**azquada.org**

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**Chris Weakland, SPHR**

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**Membership meetings are the 3<sup>rd</sup> Tuesday  
of every month from 8:30-10:00 a.m.**

# 2011 Calendar of Events

DATE	TOPIC	HOST & LOCATION
Jan 18, 8:30-10:00	2011 Forecast & Trends in Employment	Blood Systems 4405 E. Cotton Center Suite 120 Phoenix
Feb 15, 8:30-10:00	Compliant & Effective Job Descriptions & Postings	Sundt Construction 2641 S. 40th St. Phoenix
Mar 15, 8:30-10:00	Can Your Organization Make the Grade? Passing the OFCCP/EEOC Tests	Blood Systems 4405 E. Cotton Center Suite 120 Phoenix
Apr 19, 8:00-4:00 Cost: Members \$100 Nonmembers \$150	36th Annual Conference	Desert Willow Conference Center 4340 E Cotton Center #100 Phoenix
May 17, 8:30-10:00	Medical Marijuana in the Workforce	American Express 18850 N. 56 <sup>th</sup> Street, Phoenix
June 21, 8:30-10:00	Disabled/Vets Outreach -- Good Faith is Not Enough	Sundt (Los Alamos Rm) 2620 S. 55 <sup>th</sup> Street Tempe
July 25-29	Annual National ILG Conference	New Orleans
AUGUST	MID-SUMMER BREAK	MID-SUMMER BREAK
Sept 20, 8:30-10:00	Best Practices: Communicating AAPs	Blood Systems 4405 E. Cotton Center Suite 120 Phoenix
Oct 11, 8:30-10:00 <b>NOTE: Change of Date</b>	Best Practices: Diversity – Not Why But How	Sundt (Los Alamos Rm) 2620 S. 55 <sup>th</sup> Street Tempe
Nov 15, 8:30-10:00 COST: Members \$100 Nonmembers \$175 (Includes 2012 Membership)	14th Annual Compliance Conference	Desert Willow Conference Center 4340 E Cotton Center #100 Phoenix
Dec 6, 8:30-11:30 COST: Members FREE Nonmembers \$75	Annual Members Only Holiday Roundtable	Blood Systems 4405 E. Cotton Center Suite 120 Phoenix