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– *CONTRACTORS continued from page 5*

9. Location. Unless the services can be performed only in one location, an independent contractor chooses where to do the work.

10. Sequence of Work. Independent contractors determine the order in which they accomplish their tasks.

11. Reports. Independent contractors should not be required to produce interim reports.

12. Payment. Independent contractors are paid for the results of their work, not for the time worked.

13. Expenses. Independent contractors are responsible for their business expenses.

14. Tools. Independent contractors typically provide their equipment and tools.

15. Investment. An independent contractor has a significant investment in his business such as a home office.

16. Profit. Independent contractors can realize profits and incur losses.

17. Multiple jobs. Independent contractors can work for more than one employer at a time.

18. Availability. Independent contractors make their services available to the general public.

19. Termination. Independent contractors cannot be fired at will, as can employees.

20. Liability. Independent contractors are liable for failure to complete a job.

SOURCE: [www.shrm.org/hrmagazine/articles/](http://www.shrm.org/hrmagazine/articles/)

Also access: <http://ftp.fedworld.gov/pub/irs-pdf/p15a/pdf>

**CALENDAR**  
*of Events*

<b>September 19, 2001</b>	<b>October 3-5, 2001</b>
Ramada Inn, Ashwaubenon	State SHRM
Dinner Meeting	Conference
Topic TBD	Milwaukee, Wi

**Green Bay Area Chapter of the Society  
for Human Resource Management**

***From the President***

With the arrival of summer, the Green Bay Chapter hosted its annual golf outing on June 13, 2001! Immediately following the golf outing at the course, attendees enjoyed a social hour and dinner. Thank you to Julie Salemi, for coordinating this great event!

The Chapter would like to also thank each of our sponsors for our Annual Sponsor-a-Student night at our April meeting. The evening was a great success allowing the students to meet and talk with many HR professionals.

Just a reminder, the State Conference will be held in Milwaukee this year on October 3-5, 2001. Information on registration will be sent in the mail within the next month or you can check out the State Council web site at [www.wishrm.org](http://www.wishrm.org).

The Green Bay Chapter Board plans to survey the membership this summer to generate ideas to improve the services offered to the membership. Please take some time to complete the survey and give the Board your ideas!

Finally, the Chapter will not hold speaker meetings in June, July or August. The next meeting will be held in September. The Chapter currently has close to 200 members. If you know someone who would like to become a member of the Green Bay Area Chapter - SHRM, please refer the person to our Membership Director Barb Mueller at (920) 661-5462.

Have a great summer!

*Kellie Dunn-Poggemann, PHR*  
*President*  
(920) 751-3498

***A Letter of Thanks***

The following letter of appreciation and thanks was recently received by the Chapter from the family sponsored through the Salvation Army's Adopt-A-Family program.

To Whom It May Concern:

We all know how the holidays can be a rough time for everyone. And I can say for myself that this is true! We would like to thank you so much for your support of gifts this past holiday season! It is very much appreciated. My daughter and I enjoyed our gifts very much! We hope your holiday season was as enjoyable as ours. Thanks again.

***Next Business Meeting***

As a reminder, the next Chapter business meeting will be a dinner meeting on Wednesday, September 19, 2001 at the Ramada Inn. Enjoy the summer!



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## Legislative Update

If you have any hot topics or ideas for a column, contact Legislative Coordinator, Bruce Deadman at (920) 490-5619 or email at [dulaw@execpc.com](mailto:dulaw@execpc.com).

### *The “Seinfeld” Decision - More than a “Nothing” Case*

Jerry Seinfeld was the king of network TV for nine seasons and appears to be the rerun Emperor for Life because of his show about - **nothing**. Ironically, his name is forever attached to a Wisconsin case with fewer episodes, but at nearly 7 years a long run in its own right.

Like Jerry’s money machine, the Seinfeld case (Mackenzie v. Miller Brewing) generated tons of publicity. Unlike the show, and more like the Kramer/Jackie Chiles espresso for life settlement (remember that one?) it generated zippo dollars for the plaintiff. In fact, contrary to the publicity and other yada yada yada surrounding the case, the decisions of the Wisconsin Court of Appeals and Supreme Court actually made some good law **for employers**.

The case earned the “Seinfeld” moniker because Mr. Mackenzie was allegedly fired for regaling a female employee with a recap of the Seinfeld episode involving Jerry not remembering anything about his latest girlfriend’s name other than that it rhymed with a female body part. (#5 on the Mr. Show Biz Best Seinfeld’s of All Time List, and I hope I don’t get fired for surfing Seinfeld sites on company time to come up with that gem.) And, is it just me or is there something odd about Mackenzie’s employer, Miller Brewing, whose ads have prominently featured just about every female body part but the one in question, being overly concerned about this particular water cooler exchange?

Actually, the Dolores/Mulva incident and the claims related to it were just a sideshow for the main event.

Mackenzie’s real claim was that he should have been told by Miller way back in 1989 he’d been put on the “ain’t ever gonna be a top dog” list. (No doubt that would have happened to George Costanza too if he’d ever kept a job long enough.) Mackenzie claimed that if he had known that his salary grade (but not his

pay) had been changed he would have looked for other employment.

After a three and a half week trial, the jury returned a verdict in excess of \$25 million, the vast majority of which was against Miller for failing to disclose to Mackenzie his “true” status.

In February, 2000 the Wisconsin Court of Appeals reversed the judgment, and held that employers do not have an unlimited duty to disclose to employees every bit of information that may possibly influence their decisions regarding the employee. The Court also noted that if employers had such a duty, then employees did too, thus requiring employees to inform their employer of their future employment plans, no matter the consequences. The Court felt that such a policy would be impossible to enforce and would seriously erode Wisconsin’s long- standing recognition of at-will employment, namely that employers or employees can start and end an employment relationship for a good reason, a bad reason, or no reason at all, subject to discrimination laws, contract language, and limited public policy exceptions.

The Wisconsin Supreme Court’s March, 2001 opinion agreed with the Court of Appeals, and held that to hold otherwise could “severely limit the freedom, flexibility, and privacy of employees as well as employers.”

However, the Court also hinted that employers do not have carte blanche under the at-will doctrine to induce employees to take specific action by making promises they have no intention of keeping.

So, despite the initial publicity of a \$25 million verdict, a case that started out as a big “something” for the plaintiff wound up being not only “nothing” for him, but a strong reaffirmation of the employment-at-will doctrine cherished by Wisconsin employers.

*Thanks to Atty. George Whyte of Quarles and Brady for his assistance in providing information for this article.*

## State SHRM Conference

**Mission Possible**, the largest SHRM State Conference in the Midwest will be held at the **Midwest Express Center** in Milwaukee on **October 3-5, 2001**.

Dr. Brian Little will open the 15th Annual Wisconsin SHRM State Conference. His presentation is entitled, Herding Cats and Managing Diversity. That evening, Daniel Pink’s presentation will address “Free Agent Nation”. The conference will close on Friday with the luncheon speaker, James Harris. Mr. Harris will present on Culture Shock.

Some of the confirmed concurrent session topics cover the following:

Compensation Trends; Stop the Fighting and Play Nice; Workplace Ergonomics, Retention by Design; How to Grow a Backbone; Ethics and Values in the Workplace; Internet Based Pay Management Systems; Mentoring Diverse Employees; E-learning as a Development Tool; Legislative Update; Organizational Performance and Development; and Executive Coaching.

The Hilton is the Conference Hotel with daily rates at \$99.00 for single and \$109.00 for double.

### *Audit Committee*

If any Chapter member is interested in participating on an Audit Committee over the summer, please contact Jim Schwartz, Treasurer at (920) 497-9191.

### *Employee or Independent Contractor?*

The June 2001 edition of HR Magazine featured an article by Steve Bates discussing the employee vs. independent contractor debate. Here are some additional resources to assist you:

The Internal Revenue Service uses these common-law factors to determine whether a worker is an independent contractor or a regular employee:

1. Instructions. An employer should not tell an independent contractor how to do a job.
2. Training. An employer should not provide sub-

Registration costs are:  
National SHRM Member: \$210 prior to 9/1/01; \$250 after 9/1/01  
Non-National SHRM Member: \$230 prior to 9/1/01; \$250 after 9/1/01  
Students registrations: \$50

The following individuals can be contacted for further information:

Cheryl Zima, Conference Co-Chair - (414) 359-8252; [cheryl\\_f\\_zima@fmgc.com](mailto:cheryl_f_zima@fmgc.com)  
Brook Mayborne, Conference Co-Chair - (414) 403-0920, [aimhigh@brookmayborne.com](mailto:aimhigh@brookmayborne.com)  
Mark Kasprzak, Advertising Co-Chair - (262) 246-6590, [mkasprzak@graebel.com](mailto:mkasprzak@graebel.com)  
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Ed Wood, Exhibits Co-Chair - (608) 764-2710, [cewood@inwave.com](mailto:cewood@inwave.com)  
Michelle Bailey, Sponsorships Chair - (608) 241-0202; [baileym@bellabs.com](mailto:baileym@bellabs.com)  
Jennifer Rozek, Student Co-Chair - (414) 447-5403; [jrozek@mlock.com](mailto:jrozek@mlock.com)  
Bill Galovic, Student Co-Chair - (414) 359-8151; [william\\_p\\_galovich@fmgc.com](mailto:william_p_galovich@fmgc.com)  
Stacey Forbes, Registration Co-Chair - (920) 996-0610, [stacey.forbes@rhii.com](mailto:stacey.forbes@rhii.com)

Look for our registration mailer this summer! As additional information is available, it will be posted at [www.wishrm.org](http://www.wishrm.org).

stantial training for an independent contractor.

3. Integration. An independent contractor should not be hired to provide a service that is an essential part of an employer’s business.

4. Personal Services. An employer should not insist that the work be performed by the contractor rather than someone that the contractor might hire.

5. Assistants. Independent contractors control and pay their assistants.

6. Length of Relationship. Independent contractors should not have a continuing relationship with an employer unless there are multiple contracts.

7. Work Hours. An independent contractor usually determines the hours worked to complete a job.

8. Amount of work. An independent contractor should not be told to work full time for an employer that would prevent the contractor from doing other work.

– See *CONTRACTORS* continued on page 6

## Student Chapter Update

Sponsor-A-Student Night was held on Wednesday, April 18, 2001. The UWGB student chapter would like to thank all of the sponsors for a very informative and successful evening. Nancy Kelly (Associated Bank), Linda DeSwarte (American Express Property Casualty), Bruce Deadman (Virchow Krause), Heather Gerbers (1st Security Credit Union), Candy Gilmore (TNT Crust), Georgina Muelemans (Nelco), Curt Prokash (Algoma Hardwoods, Inc.) and Julie Salemi (Cummins Great Lakes) sponsored seven student chapter members to attend the meeting. The student chapter president, Andrew Schmidt, spoke about the activities of the student chapter this year. A big thanks to all of our members who volunteered their time to speak at UWGB this year either to generate interest of to share information on a HR topic.

Congratulations to the student chapter who received an honorable mention for Student Chapter Merit Awards. Some of the activities conducted to receive the award included a training on hiring, a web site, and on-line resume booklet.

The group will take the summer off but will be back together in the fall to begin another exciting year. Have a great summer!

Jenny Lowe  
Student Relations Director



## Table Topics

Listed below are the responses to the most recent Table Topics.

### Reference Checking and Other Background Investigations December 2000

- Perform criminal background check, reference check, pre-employment drug screening, education verifications, verify previous employment listed on application form, etc.
- FBI check for banking industry.
- Use the internet to verify licenses and certifications.
- Verify college degrees.
- Fidelitec in Madison is used and is very successful for one employer.
- WI State criminal on-line background checks using the Dept of Justice website. Costs \$13 and takes at most 24 hours for results.

No specific websites were listed on the Table Topics forms. If you know of a site you have found success with and would like to share this information in an upcoming edition of News You Can Use, please contact Barb Altschwager, PHR, Public Relations Director at (920) 431-8384.

– See TABLE TOPICS continued on page 4

– TABLE TOPICS continued from page 3

### Flexible Work Options

January 2001

- Opt time - work at higher wage with no benefits.
- Vary shifts and their lengths.
- Summer flexible hours.
- Allow work at home.
- 2nd shift half time 5 - 9 p.m.
- Job Sharing.
- 4/10 hour work weeks.
- 30 hour work weeks with full-time benefits.
- Offer part-time benefits.
- Flexibility in scheduling.
- Allow employees to make-up hours.
- Telecommuting.
- Switching shifts by mutual agreement.
- Military PTO for exempt employees.

### Recruiting in a Tight Labor Market

April 2001

- Money isn't everything - but it helps!
- Use your company's website:
  - Post openings.
  - List benefits.
- Respond to applicants right away.
- Creative recruitment advertising: newspaper, radio, TV, billboard.
- Employee referrals.
- Job fairs.
- Offer a variety of shifts for office employees too.
- Increase benefits.
- Network with schools, universities, professional organizations, etc.
- Internships.
- Internet recruiting.
- Temp agencies.

- Post openings on company sign attached or near building.
- Retention efforts.
- Target alumni from specialized schools.

### Dress Codes

May 2001

Responses varied widely:

- 3 reported: Always professional/traditional business - no skorts or capris.
- 7 reported: Business casual includes skorts and capris.
- 1 reported: Moving to more traditional business dress policy due to violations.
- In most companies, the HR department is asked to address dress code violations, even though the supervisors are supposed to handle.

## Membership Information Update

Currently, the Green Bay Area Chapter - SHRM membership count is at 196. Recruit new members! Your Board of Directors is looking forward to celebrating our 200th member at an upcoming business meeting.

If you are new to the Green Bay Area Chapter - SHRM, our chapter number is 0504. If you have moved from another SHRM chapter, please contact Barb Mueller, Membership Director at (920) 661-5462 for a SHRM Primary Chapter Designation form to update your chapter affiliation.



## Welcome New Members

Sally Stansbury - Schreiber Foods  
Debbie Van Ess - Dental Health Products, Inc.  
Christopher McKelvey - Dental Health Products, Inc.  
Greg Grobe - Liebmann, Conway, Olejniczak & Jerry, S.C.  
Gary Moore - Specialty Chemical Products  
Amy Gillis - Megtec Systems  
John Kollath - A&A Fire and Security, Inc.  
Bridget Kennedy - Promotion Management Inc.  
David Coble - Schreiber Foods  
Deborah Coady - Wisconsin Central System

If you are interested in placing an advertisement for your organization in News You Can Use, please contact Barb Altschwager, PHR, Public Relations Director at (920) 431-8384.

### Olsten Staffing Services

Jim Schwartz  
Licensee/Owner

920-497-9191  
920-497-0909 Fax  
e-mail: jim.schwartz@olsten.com

1543 Park Place, Green Bay, WI 54304



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