



Labor & Employment Law Legislative & Legal Update

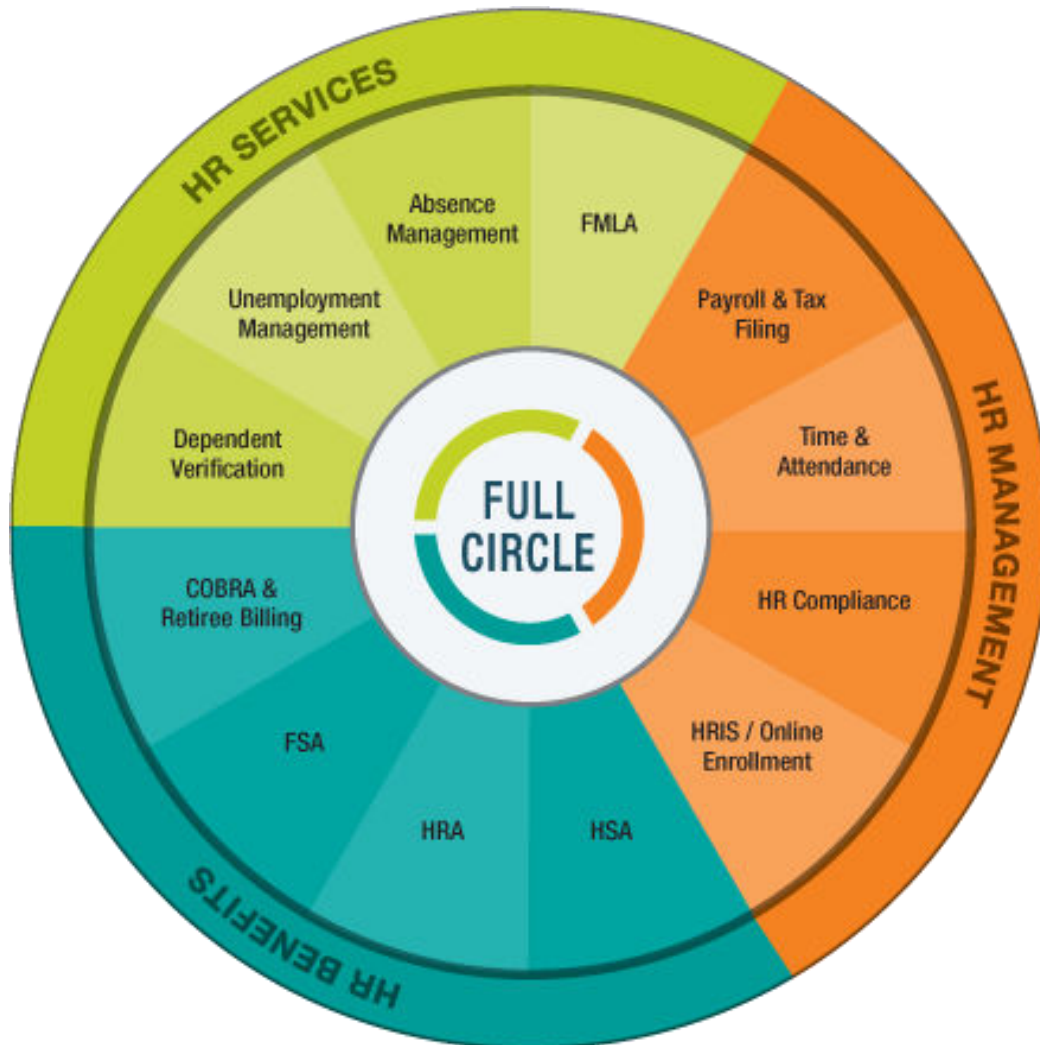
Presented by: Kevin M. McCarthy



- HR Benefits
- HR Management
- HR Services

We're proud to offer a full-circle solution to your HR needs. BASIC offers collaboration, flexibility, stability, security, quality service and an experienced staff to meet your integrated HR, FMLA and Payroll needs.

HR Solutions Come Full Circle



HR solutions should be simple.
Keep it BASIC.

BASIC's integrated HR solutions come full circle for employers nationwide. Consistently recognized as an Inc. 5,000 Fastest Growing Private Company, our expertise allows you to control costs, manage risks and improve staff focus and effectiveness.



Federal Legislative Changes



- Nothing – absolutely nothing

Federal Legislative Proposals



- Healthy Families Act
 - 7 Mandatory Sick Days/Year
- Proposed ACA Amendment
 - Change the Definition of “Full-time” to 40 Hours/Week



Federal Agency Regulatory Changes



- NLRB “Quickie” or “Ambush” Election Rules
 - Unions already winning 69% of elections
- NLRB Coordinates Investigations with OSHA & WHD

Federal Regulatory Changes, con't



- EEOC & FTC Issue “Best Practices” on Background Checks
- EEOC Guidance on Pregnancy Accommodation
- FMLA Definition of “Spouse” Altered
- ACA 90-day Waiting Period Can Be 120 Days

Federal Agency Proposed Regulatory Changes



- Revised FLSA Exemption Rules Due Soon
- Contractors & Subs Will Have to Submit Equal Pay Reports (8/16/14 Proposed Rule; Comment Period Ended 1/5/15)

Executive Orders



- Federal Contractors
 - Bidders Must Disclose “Labor Law Violations” Starting with 2016 Contracts “Fair Play & Safe Workplaces” E.O.)
 - For Certain Contractors, Minimum Wage of \$10.10/Hour, with COLA Adjustments Annually after 1/1/2016 (E.O. 13658; Final Rule 6/12/14); Effective 1/1/15
 - May Not Discriminate on Basis of Sexual Orientation or Gender Identity (E.O. 13672; Final Rule 12/3/14)



- Private Employers Veterans' Preference Policy Act
- Minimum Wage Increased
 - 9/1/14 \$8.15
 - 1/1/16 \$8.50
 - 1/1/17 \$8.90
 - 1/1/18 \$9.25

Likely Proposed Legislation



- Prohibition of Sexual Orientation or Gender Identity Discrimination
- “Ban the Box” Legislation

Court Decisions – EEO Cases



- *Hobby Lobby* – Religious Freedom Restoration Act Protects Closely Held Companies (U.S. Supreme Ct.)
- ADAAA Definition of “Disability” Examined – *Summers v Altarum Instrument* (4th Cir.)
- Alcoholic Truck Driver Not Qualified for His Job under the ADA – *Jarvalo v Crete Carrier* (11th Cir.)

Court Decisions – EEO Cases



- Burden on Employee to Prove Reasonable Accommodation Request Made – *Parsons v Auto Club Group* (6th Cir.)
- Psychological Evaluation Must be Supported by Evidence of Inability to Perform Essential Functions or Direct Threat to Safety – *Kroll v White Lake Ambulance Authority* (6th Cir.)
- EEOC Attacking Wellness Programs That Include Rewards/Penalties

Court Decisions – FMLA Cases



- Use of Regular Mail for FMLA Notices May Not Be Sufficient – *Lupyan v Corinthian Colleges* (3d Cir.)
- Caretaking of Mother on a Vegas Trip Protected under FMLA – *Ballard v Chicago Park District* (7th Cir.)
- Employee Reinstated without Back Pay Not Qualified under FMLA – *Ouellette v Fountainview of Monroe* (E.D. Mich.)

Court Decisions – FLSA Cases



- Supreme Court Finds Post-shift Security Screening Time to Be Non-compensable – *Integrity Staffing v Busk* (U.S. Supreme Court)
- Domestic Caregiver Regulations Vacated – *Home Care Association of America v Weil* (D.D.C.)

NLRB Decisions



- Rule Prohibiting “Discourteous or Inappropriate Attitude or Behavior” Illegal under the NLRA – *First Transit, Inc.*
- Nondisclosure Rule Found to Violate NLRA – *Fresh & Easy Neighborhood Market*
- Micro-bargaining Unit Rule Applied – *Macy’s, Inc. and Neiman Marcus Group*

NLRB Decisions, con't



- *Purple Communications* – Employees Organizing a Union May Be Able to Use the Employer's E-mail System to Communicate about the Election

Other Cases



- Former Employer's Non-Competition Cease & Desist Letter to New Employer Not Illegal – *Bonds v Philips Electronic North America* (E.D. Mich.)
- Contract Non-renewal Not an Adverse Employment Action under the WPA – *Wurtz v Beecher Metropolitan District* (Mich. Supreme Court)
- Medical Marijuana User Not Disqualified from Unemployment Compensation Benefits - *Braska v Challenge Manufacturing* (Mich. Ct. App.)

Other Cases, con't



- MEA's Window Period for Withdrawal from Union Illegal – *Saginaw Education Association* (MERC ALJ)
- Fair Credit Reporting Act Cases Proliferate



Questions



- HR Benefits
- HR Management
- HR Services

We're proud to offer a full-circle solution to your HR needs. BASIC offers collaboration, flexibility, stability, security, quality service and an experienced staff to meet your integrated HR, FMLA and Payroll needs.

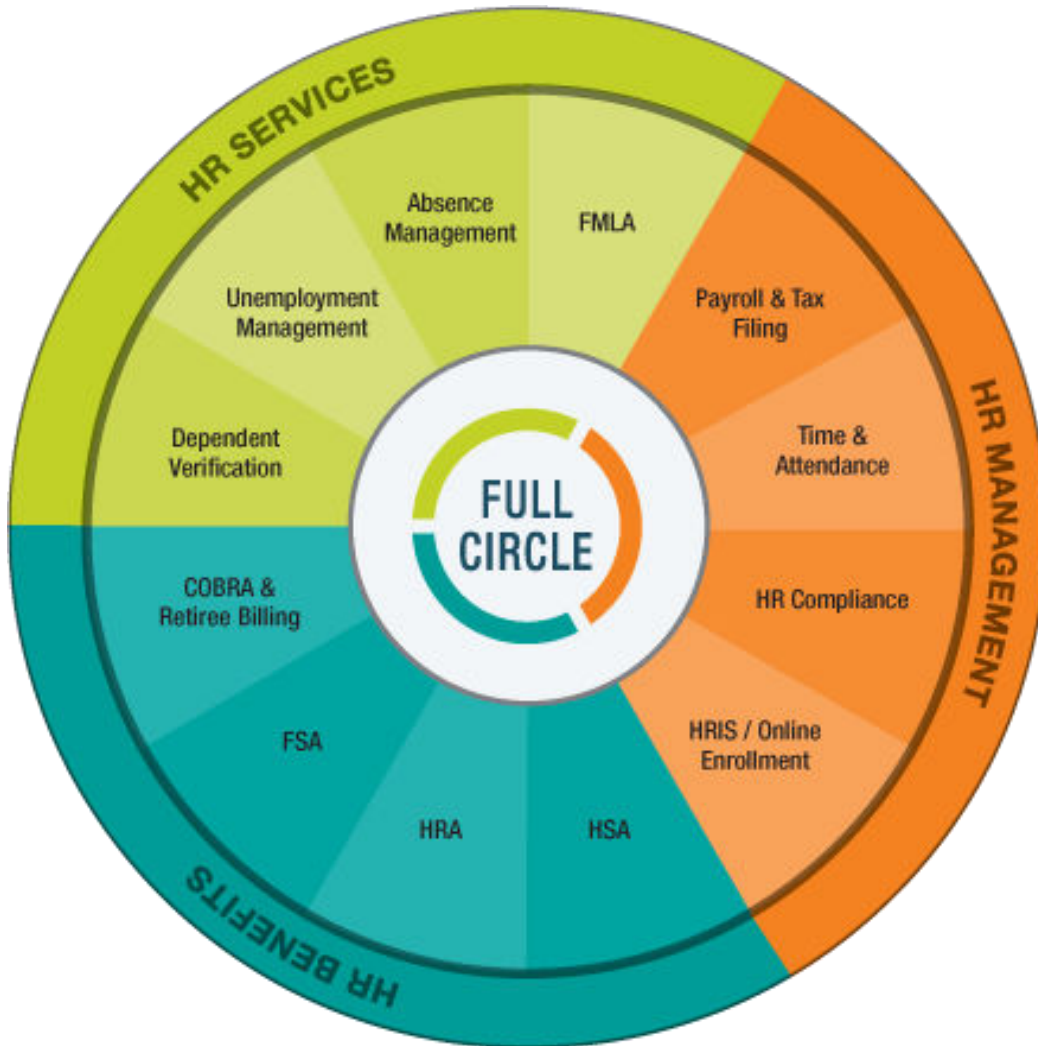


Contact the Presenter



Kevin M. McCarthy
Warner Norcross & Judd LLP
401 E. Michigan Ave.
Kalamazoo, MI 49007
kmccarthy@wnj.com

Contact Us



HR solutions should be simple.
Keep it BASIC.



800.444.1922
sales@basiconline.com
www.basiconline.com

BASIC's Award Winning Services



[Request a price quote or proposal for one or more of BASIC's services.](#)

- FMLA
- FSA / HRA / HAS
- COBRA
- Payroll
- Absence Management

Learn more about BASIC's Employer Compliance Services

- [ERISA Essentials](#)
- [HIPAA Privacy and Security](#)
- [Labor Law Posters](#)

Disclaimer



This presentation is designed to provide accurate information in regard to the subject matter covered. It is provided with the understanding that BASIC is not engaged in rendering legal or other professional services. If legal advice or other expert assistance is required, the services of a competent attorney or other professional person should be sought. Due to the numerous factual issues which arise in any human resource or employment question, each specific matter should be discussed with your attorney.