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## MEMBER NETWORKING

### CHAPTER BUSINESS

#### SCOTTSDALE CHAPTER EXECUTIVE COMMITTEE MEMBER

**John Scherer**  
Tatum, LLC

Associate Managing Partner  
*Member Since:* July 2008

Coming out of the Valley of the Sun is John Scherer, Associate Managing Partner of Tatum, LLC in Scottsdale, Arizona. Scherer is responsible for Tatum's Arizona principal/controllership practice. He recently met with *cli<sup>Q</sup>ue* to discuss Tatum, the Arizona marketplace and the Scottsdale chapter. **More...**

#### CENTURY CITY CHAPTER EXECUTIVE COMMITTEE MEMBER

**Desiree D. Pierce, CFP®**

Wells Fargo Family Wealth Group  
Vice President – Family Wealth Advisor  
*Member Since:* March 2008

Prior to her tenure as Vice President and Family Wealth Advisor with the Wells Fargo Family Wealth Group, Desiree Pierce owned Pierce Enterprises, a national company, specializing in financial consulting, credit analysis, asset recovery and legal research. She recently met with *cli<sup>Q</sup>ue* to share her experience, her expertise at Wells Fargo and Century City's Business Forums chapter **More...**



#### **Chris Kaine – Lockton Companies**

Vice President & Producer – M&A/D&O/E&O

In his new position as a producer with Lockton Companies, the largest privately-held independent insurance broker in the world, Chris Kaine continues on the path of pursuing opportunities in the Private Equity/M&A and Directors & Officers liability (D&O) insurance markets. Read on to find out more about Kaine's unwavering focus and how Lockton has made a real difference in his enthusiasm for the business. **More...**



#### **Renée Marino – Grant Thornton LLP**

Accountant – Forensics and Litigation

Renée D. Marino, Managing Director - Forensics and Litigation Services for the Minneapolis office of Grant Thornton, is someone companies turn to in both good and challenging times. She has more than 20 years of business experience in the valuation and financial consulting fields, including financial damages determination and expert witness testimony. Read on for more of Marino's forensics and litigation experience. **More...**



#### **Mark J. Neuberger – Foley & Lardner LLP**

Attorney – Benefits/Employment/ERISA

Mark Neuberger, Counsel with Foley & Lardner's Labor & Employment Practice in Miami, says the American workplace is undergoing a metamorphosis, based on three factors: politics, oil, and technology. Neuberger shares with *cli<sup>Q</sup>ue* his experience and expertise and the ways in which this will ensure new legal and human resources resolutions for companies large and small. **More...**



**Michael Peloquin, Publisher**

Subscription – \$975 /12 Issues  
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Los Angeles, California 90067  
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# Networking Opportunities

"My ideal client or lead is a senior-level human resource management executive, general senior-level manager or in-house counsel at a firm that, regardless of its size, understands the value in treating its workforce with dignity and also understands the true value of 'preventive maintenance' when it comes to compliance with all of the various laws which regulate the employment process. I also seek contacts who are not just looking to hire an attorney but want an advisor and counselor who can help them achieve their business goals and are willing to let me become part of the team through earned trust and demonstrated performance."

Are you ready for the workplace of tomorrow? It's coming, and probably a lot faster than you think.

"The American workplace is undergoing a metamorphosis, based on three factors: politics, oil, and technology," says Mark Neuberger, of Counsel with Foley & Lardner's Labor & Employment Practice in Miami, who also has 10 years of experience as a manager in the human resources department of PPG Industries. "Regardless of what candidate wins in November, I believe you're going to see a major shift in employment laws in America and that companies will really start to look different in the workplace within the next 18 months. The energy crisis will impact cost structures, causing people to do things differently. With the help of technology, there will be more telecommuters. One example of this can be seen by the rise in the number of businesses implementing telecommuting policies and considering alternative work schedules."

Along with this change in the workplace, Neuberger says, will come a host of new legal and human resources issues for companies large and small to resolve.

One key area of concern will be the process of how an employer tracks employee work hours and how they follow the rules of overtime claimed by employees, which can be treated differently at the federal and state levels.

"If you're not coming into the office, how does your employer know when you're working and when you're not?" Neuberger asks. "It all depends on whether or not a particular employee is Exempt under the federal or state overtime laws. And beware, just making them salaried does not in itself make

them exempt from overtime. So, if your secretary goes home, logs onto the computer at night and starts reading e-mails and responding to them, that individual is working and needs to be paid and have their hours worked counted. If the accounting clerk checks e-mails in the evening, they're working and need to be compensated for it. How can an employer manage this in a highly mobile world?"

Getting a handle on these issues is paramount for companies, explains Neuberger, because even today, under the current rules of the federal Fair Labor Standards Act and the current workplace setups, there is so much litigation that occurs.

Companies will also have to pay attention to how health and safety issues will be addressed under this newly evolving workplace structure.

"Every employer is covered by the federal workplace safety law, the Occupational Safety and Health Act, and has a legal obligation to maintain a safe and healthy workplace for its employees," Neuberger says. "The key is how we define the workplace. What if it's my den because my employer allowed me to telecommute? Is it necessary to send a safety inspector into the home to protect your business?"

Technology is another area where companies will have to establish clearer guidelines for their work force.

"How do you preserve a company's technology, which is often the most valuable resource a business has? How do you protect it when you have computers and hardware at home, traveling laptops, jump drives and situations where laptops get lost or worse yet – fall into the hands of competitors, with confidential information on them?"

**Mark J. Neuberger**  
Foley & Lardner LLP

Professional Category:  
Attorney – Benefits/  
Employment/ERISA

Member Since:  
August 2008



“Regardless of what candidate wins in November, I believe you’re going to see a major shift in employment laws in America.”

In addition to the changing nature of how a workforce is set up and handled in the next couple of years, Neuberger also warns that companies may be seeing more issues arise from an unexpected area: unions.

Generally speaking, most employers don't think much anymore about union activity. Rates of unionization in the private sector are as low as they have ever been and many unions are facing rapidly shrinking membership. Unions survive from the dues their members pay, so the decline in membership has put many unions in the struggle for their survival.

"But there's a law that almost got through Congress this year," Neuberger says, "and if the Democrats control the White House and Congress after the election, there is an excellent chance it will pass next year. This law, called The Employee Free Choice Act, if enacted will make it much easier for unions to organize and I think employers need to start paying more attention to that issue."

Finally, another challenge that might arise as an issue for companies concerns the Americans with Disabilities Act.

"Regardless of which party comes to power after the presidential election, I think it is likely that we will see changes in the Americans with Disabilities Act, which will broaden the interpretation of who is a disabled individual that is entitled to protection under that law," Neuberger says. "The law prohibits discriminating against qualified individuals with a disability and was passed in 1990 under first President Bush. Since then, there have been a number of court cases that have narrowed or restricted the definition of who is a disabled individual. As a result, if a law which broadens the definition passes, more people are likely to test the limits by filing suits."

Despite all these potential issues that may arise within the workplace of tomorrow, Neuberger counsels that with the right planning and preparation, companies can lay a solid groundwork for navigating past these potential hurdles and free themselves to focus on the most important aspect of their business – putting out a great product or service and making money.

"Spending a little time and money up front saves both in the end," Neuberger says. "The question is not will I be sued, but if I am sued how can my company get a good result quickly and efficiently without disrupting business? Taking preventative steps to address the issues that will face all American businesses in the coming years is essential. Preventative steps can be accomplished through things like briefing management on legislative and changes; audits; training all levels of employees, especially in the area of sexual harassment and interpersonal relationships; and focusing on sound performance appraisal systems. By doing these things when a company does have to deal with a problem employee, the situation is well documented. And, the training and preparation greatly reduces the chance of an unfavorable outcome for the employer."

*If you want to contact Mark Neuberger about Foley & Lardner LLP and their services, call (305) 482-8408 or e-mail him at [mneuberger@foley.com](mailto:mneuberger@foley.com).*

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