7-2007

Practicing CPA, vol. 31 no. 6, July/August 2007

American Institute of Certified Public Accountants (AICPA)

The Practicing CPA

THE NEWSLETTER OF THE AICPA PRIVATE COMPANIES PRACTICE SECTION

PCPS
AICPA Private Companies Practice Section

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Inside

FYI

The Private Companies Practice Section, an alliance of the AICPA, represents more than 6,000 local and regional CPA firms. The goal of PCPS is to provide member firms with up-to-date information, advocacy, and solutions to challenges facing their firms and the profession. Please call 1-800-CPA-FIRM for more information.

July/August 2007

Put Staff First, Clients Will Follow!

By Steve Osborne and Edi Osborne

The situation is desperate. CPA firms are overwhelmed with client demands, and there's not enough staff to handle all the work. Employees are burning out and leaving public accounting, lured away by industry's signing bonuses and benefits packages. The time-tested formula of working longer and harder to increase profitability no longer applies. To make matters worse, the Department of Labor predicts the workforce shortage will only get worse for at least the next 10 years as baby boomers retire at increasing rates, and colleges don't graduate near the number of accountants needed by public firms and industry. It's a pretty bleak picture, isn't it? Maybe not.

Actually, the staff shortage may be the best thing that has ever happened to the public accounting industry. It presents a tremendous opportunity for CPA firms to reinvent themselves and change the way they deliver services. One new strategy centers on one simple concept: Don't double the hours employees are working – double the value they bring to the firm and its clients.

Happy employees make for happy clients

Ten years ago, accountants were plentiful, and clients were more difficult to attract, so firms focused on acquiring clients. Today, demand for accounting has outstripped supply. Firms are overwhelmed with work at a time when it's far more difficult to find and keep talent than it is to acquire and retain clients. This environment demands a whole new strategy. It begins with a radical paradigm shift – a "staff first" culture. But wait a minute! What is this about *staff first?* Whatever happened to the old mantra "customers first?" The fact is, it takes happy employees to make happy customers.

Anyone who has ever walked into a firm or retail establishment has experienced what it's like to talk to an unhappy or disinterested employee, someone who is just going through the motions to get a paycheck. Such employees leave customers feeling unwelcome, unlikely to return for additional business, and extremely unlikely to refer other customers.

Happy employees, on the other hand, have a positive attitude. They are engaged and productive, fully aware that their success is tied to that of the organization. They view their interaction with clients as an opportunity to provide assistance and generate client satisfaction. These are the types of employees who are willing to go the extra mile for the client because they have been empowered to do so, not because they have been prompted or coerced. Clients can feel the difference as they interact with responsive employees who provide consistently excellent service. They also know that a workplace that treats its employees well is a good place to do business.

When it comes to pleasing clients, accounting firms have an additional challenge. People don't usually look forward to visiting an accountant. At best, it means they have to deal with dry, difficult-to-understand financial statements; at worst, it means bad news because of unfavorable tax returns. Happy employees can help clients make the best of the experience and their relationship with the firm in general, surprising

continued on next page

them with the positive experience they rarely find at CPA firms. In addition, employees with a positive attitude are more likely to attract positive clients, not whiners or people who don't pay their bill. Good clients, in turn, are more likely to return for additional services and to refer others.

Creating a *staff first* culture

The investment of hiring a new accountant takes at least about a year to recoup, sometimes even as long as two to three years. If an employee leaves before one year is up, it's a negative investment, not to mention a loss of productivity and training time. It pays to keep employees happy with a *staff first* culture. Here are its components:

1. *Leadership commitment.* A *staff first* culture starts at the top. The managing partner, president, or CEO has to set the tone for the organization and foster open, positive communication with the workforce. Leadership also sets a clear service commitment that links client success to employee and firm success. Employees know what they need to do to make it happen and are empowered with training and support to carry it through. They know the firm is committed to helping them accomplish their career goals.
2. *Strategic IQ.* Raising a firm's strategic IQ is accomplished by creating a vision, communicating it to the employees, and aligning their activities accordingly. If employees understand how their role fits into the firm's vision, they will do whatever it takes to help the firm succeed and thereby bring about their own success. They will be engaged and loyal, diligently working toward the pot of gold at the end of the rainbow – but only if they can see it and know what they must do to get there. Creating this vision may be the most challenging step in developing the new strategic perspective. Driven by short-term deadlines, CPAs tend to spend little time thinking about the future. But raising the strategic IQ depends on a long-term view that focuses on outcomes, not tasks, and on doing the right thing, not just doing things right. It's the difference between working *in* the business and *on* the business.
3. *Flexibility.* When it comes to attracting and retaining employees, one size does not fit all. Over half of all accountants are women, many of them mothers. Since technology has enabled greater flexibility in how work gets done, firms have the opportunity to focus more on outcomes than hours. In other words, rather than asking employees to put in 40 hours a week in a cubicle, ask for outcomes regardless of how and where the work is accomplished. Smaller firms in particular, which cannot always compete on salary, have a strategic advantage of being able to compete on flexibility. They can allow employees to work from home, work three days a week, or do job sharing. This aspect of the *staff first* culture puts people in charge of their own destiny, which again has a tremendous impact on productivity. It also supports the work/life balance today's employees value so highly. In fact, being able to offer this flexibility gives public accounting a strategic advantage over industry where accountants are still driven to burnout.
4. *Double value for clients.* A strategic focus addresses the total needs of the client, not just their compliance needs. This, in turn, generates more meaningful, rewarding work for employees such as advisory services and consulting, thereby leveraging the firm's talent and doubling its value to clients. Clients receive comprehensive services, and employees gain a sense of purpose that fosters their career advancement and the firm's growth. With loyal employees and clients, the firm becomes a stimulating place to work. Finally, it's critical to turn those value-added services into the core services of the firm, with compliance work only as a by-product.

   Of course, it's not enough for just one or two people to double their value to the client. It has to happen across the board. For too many years, firms have committed one or two people to a value-added service line and then expected that the service will magically, as if by osmosis, spread to others in the firm. It just doesn't happen. Why? Because firms are still operating under the paradigm that technical training is more important than people skills. That translates into a compliance focus, not a client focus.
5. *Desirable clients only, please.* But what about those clients who just won't be satisfied no matter how hard everyone works on their behalf? Why not

The Practicing CPA **(ISSN 0885-6931) July/August 2007, Volume 31, Number 6. Publication and editorial office: 220 Leigh Farm Road, Durham, NC 27707.** **Printing and mailing paid by PCPS/The AICPA Alliance for CPA firms. Opinions of the authors are their own and do not necessarily reflect policies of the AICPA.**

Editor: William Moran.

fire those complainers? With more than enough work to go around, there is really no reason any more to work for difficult clients who often don't pay their bills to boot. The fact is that 20 percent of a firm's clients are buying 80 percent of its goods and services, while the other 80 percent take up 80 percent of the time without being nearly as profitable. These undesirable clients create serious morale problems, leading staff members to leave the firm or the accounting profession altogether. Usually partners or senior members of the firm are not aware of the impact these demanding, often rude clients are having on the employees who work with them directly. The answer is simple: Ask staff to create a list of undesirable clients to be fired. There may be surprisingly few, but getting rid of them will have a huge impact on morale and productivity.

Case study: Creating a *staff first* culture at Meyers Norris Penny, LLP

Founded in 1945, Meyers Norris Penny, LLP (MNP) is one of Canada's largest accounting firms, with approximately 2,000 employees in more than 50 offices throughout western Canada. In the last 10 years, MNP has grown dramatically through acquisitions under the direction of CEO Daryl Ritchie. In an effort to assimilate the different cultures of the newly acquired firms, it defined its future not in terms of revenues and number of clients, but in terms of culture. MNP decided to create a culture where staff feels valued and therefore gives value to clients.

"In our mission statement, we encourage employees to have fun and to stay in balance," says Mark Brown, the firm's Director of Business Consulting Services. "Those are the underpinnings of a culture we live every day. MNP's senior team lives and communicates a culture in which people work together rather than practicing one-upmanship. The firm keeps up its side of the bargain with regard to developing our up-and-coming people and giving them the opportunity to grow. Employees have interesting and challenging tasks, which make their work worthwhile. We also invest in training and development, particularly through MNP University."

Another one of MNP's success factors is to reduce attrition. "We do a good job of selecting and promoting people to partnership with the idea that we need good, strong people to stay with us and grow with us," says Brown. "In larger firms, it often takes a long, long time before someone achieves partnership. During that long wait, people often leave for more attractive opportunities." MNP also encourages the firing of difficult clients. "When someone is belligerent and refuses to follow our advice, employees usually bear the brunt of that individual's frustrations," says Brown. "We free those clients up for other firms."

MNP's mission also expresses a commitment to client success. "The business of preparing financial statements and tax returns is very much a commodity game," says Brown. "While it is a big part of our success, we go far beyond it. Because many of our clients are growing or going through a transition, they look to us for support. We improve their efficiency through business consulting services that run the gamut of all the functional areas, from human resources, to corporate finance, to performance management. It's interesting," adds Brown, "that when our clients do well, we do well with them. We take pride in helping them be successful by supporting their endeavors without telling them how to run their business."

MNP's last five-year plan more than doubled its revenues. The growth has come from ongoing client relationships and mergers with like-minded smaller firms. "We are training our Chartered Accountants in performance management and the skill sets of consulting so they can truly be trusted advisors to our clients," says Brown. "The more we are aligned with our clients' endeavors, the better we can respond and help them be proactive rather than reacting to decisions they may have made without our input."

Double the value

Given the increasing dependency on accounting professionals to integrate financial reporting with other mission-critical management information, client demand is not likely to let up. And with the shortage of accounting talent, it's a case of increasing demand and diminishing supply. What's the answer? Don't double the number of employees or their working hours. Instead, double the value employees bring to clients. Everyone benefits. Employees will enjoy the financial, social, and emotional rewards of providing meaningful, value-added services. Clients love to work with engaged employees who take a holistic view of their financial needs. And the firm that establishes such a *staff first* culture will have a distinct competitive advantage. It will become more profitable and grow – without working harder.

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Preserving Documents Created on Employees' Personal Technology Resources

Will your firm or your clients' companies be required to preserve information from employees' personal email accounts and computers?

By Gregory B. Wood and Robert D. Owen

Recent news articles[1] report on a Congressional investigation that features requests for emails from the "outside" email accounts of White House staff because they had allegedly used such accounts to conduct official business. This development signals a possible expansion of a company's obligations to preserve and produce emails and other information maintained in employees' personal email accounts or on their home computers. The use of personal/nonbusiness email accounts and home personal computers to conduct official or company business thus presents heightened risks of noncompliance with legal preservation and production obligations.

The case of *Easton Sports, Inc. v. Warrior LaCrosse, Inc.*[2] is illustrative. In that case, defendant Warrior and its president, Dave Morrow, were aware that Ghassemi, an employee of Easton Sports, had improperly forwarded Easton Sports' documents through his personal Yahoo email account to Warrior's email system. Because of Warrior's knowledge, acceptance of the benefits, and failure to take corrective action, the court held that Warrior had an obligation to ensure that the emails on Ghassemi's personal Yahoo email account were preserved and that Warrior was responsible for spoliation when it did nothing to prevent Ghassemi from closing his Yahoo account (resulting in the loss of those emails) the day after suit was filed. As stated by the court:

> "[Warrior] was aware of Ghassemi's abuse of Easton's confidential records, and not the least bit interested in ensuring their preservation on Ghassemi's or Warrior's computer systems. Even the negligent destruction of evidence is prejudicial to an opposing party, and undermines the litigation process."

Therefore, depending on the facts, a party's duty to preserve relevant information can extend to employees' private email or instant messaging accounts and perhaps other sources. This will expand compliance substantially more than previously anticipated. Whether the duty to preserve extends to ancillary sources such as private email or instant messaging accounts of employees seems to rest on three factors:

1. The existence of a duty to preserve arising from statute, regulation, or reasonable anticipation of legal or administrative proceedings.
2. Explicit or tacit approval (or even absence of disapproval) of the use of private email accounts or computers to conduct company business.
3. The ability to exercise influence or control over the private source of information.

For example, if an employer knew of and authorized employees to use private email or instant messaging and private computers for company business, then the employer could have an obligation to take affirmative steps to preserve, at least, the company information on those private email or instant messaging accounts and private computers. The ability to exercise control over those private email and instant messaging accounts or private computers could arise out of an employee-employer relationship, a company-consultant relationship, or some other relationship with the owner of the private email account or computer that would give the company a right to exercise control over the contents of those email accounts or computers.

The circumstances described in both *The Wall Street Journal* article and the *Easton* case suggest steps that companies may want to take to respond to these potentially expanded preservation obligations:

- Adopt a policy that prohibits use of private email accounts or home personal computers to conduct company business.
- Require that noncompany business be conducted on separate noncompany email accounts.
- Train your employees in the foregoing and issue periodic reminders.
- Institute a suitable IT monitoring process to ensure compliance with company policy regarding use of personal email accounts and home computers for company business and take and document steps to ensure compliance with the policy.

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[1] See for example, "Congress Follows Email Trail," *The Wall Street Journal,* April 10, 2007, Vol. CCXLIX No. 83, p. A4.
[2] *Easton Sports, Inc.* v. *Warrior LaCrosse, Inc.*, 2006 WL 2811261, E.D. Mich. September 28, 2006.

institute policies giving the company access to such accounts and personal computers sufficient to comply with the preservation and discovery obligations of the company.

- If your company determines to permit the use of private email or instant messaging accounts or home personal computers to conduct company business, limit such use to pre-approved and identified accounts and personal computers and institute policies giving the company access to such accounts and personal computers sufficient to comply with the preservation and discovery obligations of the company.

The preceding article was prepared by ***Gregory B. Wood*** *(**gwood@fulbright.com** or 213-892-9235) and* ***Robert D. Owen*** *(**rowen@fulbright.com** or 212-318-3070) and appeared in the* Discovery & Information Management Fulbright Alert *(April 23, 2007), a publication of the international law firm Fulbright & Jaworski, LLP (**www.fulbright.com**) and is reprinted with permission. Messrs. Wood and Owen are attorneys associated with Fulbright's E-Discovery and Information Management Practice Group.*

Managing Employee Use of Personal Email Accounts

By Stephen Stewart

The following is an excerpt from the Web log of ESI Strategies, LLC. It complements the article on page 4 by providing additional strategies for addressing the issue of employee use of personal email accounts and personal computers, thereby possibly creating documents that should be preserved. Stewart's strategies complement the preceding article by offering tips on technical preparation to deter spoliation as well as reactive strategies for discovering "missing" documents.

Organizations need to consider strategies for managing employee use and access to personal email accounts to ensure that they don't engage in unacceptable practices. At the same time, the organization needs to develop methods for identifying, collecting, and preserving the information as part of its discovery process.

Proactive strategies

Policy preparation

- Ensure that your organization's acceptable email use policy addresses the use of noncorporate email accounts while at work and for conducting work-related business. An employee's sending information to a personal account should no longer be necessary with the availability of Web mail (for example, Outlook Web Access and iNotes)
- Identify a procedure for the identification, collection, and preservation of electronically stored information held in personal email accounts as part of your Litigation Readiness & Response Plan.

Technical preparation

- Block access. Put the most common personal email sites on the restricted list and block anything with "mail" or "webmail" in the URL.
- Block standard email ports, for example, SMTP (Port 25), POP (110), and IMAP (Port 143) for all machines except the corporate email servers.
- Monitor access. Use Web filtering and gateway monitoring software to track common personal email sites as well as common email header information in general HTTP traffic.
- Most likely your firewall vendor has a complete list of options for blocking and monitoring this type of traffic as well as common blacklists for known email account providers.

Reactive strategies

- Search the firewall/gateway logs for the employee's IP address to see which sites the employee has accessed and which are most likely to provide personal email accounts.
- Search for the employee's local Web cache and browser histories for additional information as to which email accounts are active.
- Check for mail clients such as Outlook Express, Mozilla, or Thunderbird, for example, that could be configured to personal email accounts.
- Once the accounts are known, ask the employee to connect those accounts with a Post Office Protocol (POP) or Internet Message Access Protocol (IMAP) client and download all of the online messages to a location that can be protected as part of the preservation effort.

Stephen Stewart *is a principal with ESI Strategies, LLC, whose focus is on helping customers and clients meet the challenges of the increased emphasis on managing electronically stored information (ESI). The complete Web log entry is dated April 11, 2007 and is titled "Everyone has one, so what do we do about it?" It is available at http://www.esistrategies.net/Commentary.*

Destroying Data

The federal government, as well as states and local jurisdictions, have promulgated rules that govern document preservation. Most relevant here are the Federal Rules of Civil Procedure (FRCP), amendments which went into effect December 21, 2006. Under the FRCP, an organization must preserve electronically stored information and any other potentially relevant evidence when it foresees that the information may be relevant to future litigation. In the usual course of business, however, document destruction is acceptable if it's done to comply with the organization's retention policy. States usually follow or adapt the standards set in the FRCP, as do some local jurisdictions.

Protecting privacy

On the other hand, documents and data stored electronically may need to be destroyed when they're past their useful life. As a policy needs to be set for document retention, so a policy needs to be set for sanitizing media or data destruction. Users need to be educated about the policy, and the policy's effectiveness needs to be audited.

A data destruction policy can help an organization protect the privacy of data. The threat to this privacy is illustrated by the several recent episodes of data on computers being lost or stolen, thereby providing opportunities for identity theft and access to stolen credit card and other data.

Many options are available for sanitizing and destroying the data. Simple deletion or disk formatting usually leaves traces of data behind, and simple utilities can be used to recover files from a deleted file system. More secure deletions are possible with software that clears, overwrites, wipes, or "scrubs" the data once or several times with a string of 1s and 0s. Devices, such as degaussers, purge data from a variety of media such as magnetic disks and other storage devices.

Most secure, but usually more expensive, are methods involving shredding, pulverizing, incinerating, or melting the media. When donating old computers, for example, an organization may need to remove and store old hard drives to prevent data from being misused. Old backup tapes and cassettes and hard drives may need to be shredded.

Protecting the chain of custody

Media destruction and computer recycling companies can provide certain destruction, but the organization needs to ensure protection of the information in transit. With some companies, the organization will need to deliver its media and computers to the company site to observe their destruction. Other destruction services will ship the hard drives and other backup media in double-locked "storm cases" to ensure a solid chain of custody between leaving the site and getting to the place of destruction.

Helpful resources

The Ten Commandments of Data Destruction
http://rjhansen.cs.uiowa.edu/?p=5
Robert J. Hansen, a voting systems security expert and security researcher at the University of Iowa, offers guidance in his "Ten Commandments of Data Destruction" on his Web log on software engineering.

Information technology - Security techniques - Code of practice for information security management
http://en.wikipedia.org/wiki/ISO_17799
ISO/IEC 17799 is an information security standard published by the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

National Institute of Standards and Technology (NIST) Special Publication 800-88, "Guidelines for Media Sanitization"
http://csrc.nist.gov/publications/nistpubs/.

"The fine art of data destruction" InfoWorld
http://www.infoworld.nl/idgns/bericht.phtml?id=002570DE00740E18002572BB0001CEEC
An overview of the issues associated with and the methods of data destruction by Michele Hope.

Are Your Employees on an Electronic Leash?

The use of wireless devices has grown in recent years. Some firms have distributed them to employees for business purposes, and some employees have acquired them on their own, sometimes using them for business purposes.

Because of the proliferation of these devices, employers may be at risk of employees taking legal action against them. This conclusion is based on a study conducted by Gayle Porter, an associate professor of management at Rutgers University, as reported by Frank C. Morris, Jr. in "How to Avoid Lawsuits by Tech-Driven Employees" in *New Jersey Law Journal* (March 9, 2007). Morris is a shareholder with Epstein, Becker & Green, Washington, D.C., where he heads the labor and employment practice.

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PCPS

AICPA Private Companies Practice Section

Update

PCPS continues to advocate on behalf of members and create or update valuable resources. Here's a review of some recent developments.

PCPS Executive Committee Comments on a Mobility Initiative

In recent years, complicated state regulations have made it increasingly difficult for CPA firms to serve clients in other states. These regulations do not serve the public interest, but do place undue burdens on practitioners. The AICPA and NASBA have proposed revisions to the Uniform Accountancy Act (UAA) that would grant practice privileges to qualified individuals who meet the substantial equivalency provisions of the UAA's Section 23 (***http://www.aicpa.org/download/states/UAA_Section_23_Exposure_Draft_2006.pdf***). The exposure draft would mandate that out-of-state firms with no office in the state would have to obtain a permit in the state when providing audits, examinations of prospective financial information, or PCAOB engagements for a client that has a "home office" in the state.

As part of its advocacy efforts on behalf of members, the PCPS Executive Committee issued a comment letter on the exposure draft that strongly supported elimination of all practice barriers. The Executive Committee did call for a clearer definition of "home office" and offered to provide feedback to the AICPA and NASBA on any further clarifications.

TIC Update

The PCPS Technical Issues Committee (TIC) monitors emerging standards and provides the small firm perspective on proposed pronouncements to groups such as the Financial Accounting Standards Board, Auditing Standards Board, Professional Ethics Executive Committee, and Governmental Accounting Standards Board. At a recent liaison meeting between TIC and the PCPS Executive Committee, the two groups discussed issues such as the new Private Company Financial Reporting Committee, a joint AICPA/FASB initiative that is designed to consider modifications to FASB standards to better address the needs of small company financial statement users (www.pcfr.org). Both the Executive Committee and TIC plan to monitor the new group's work and offer input. In addition, TIC chair Ed Knauf described the committee's ongoing efforts to influence standard setters to set more workable effective dates and provide implementation guidance that will facilitate understanding of new standards and compliance with them. Further information on TIC activities can be found at ***http://pcps.aicpa.org/Resources/Technical+Issues+Committee+and+Communications/***.

More Staffing Help on the Way

Finding and retaining qualified staff is a hot-button issue for PCPS members. To help in their efforts to attract the best young professionals, in July PCPS will roll out the first stages of a new online staffing resource center that will provide advice for practitioners and video learning opportunities for firm members. We'll provide more information on this major new benefit for members in future issues. Meanwhile, members can turn to resources such as the PCPS Top Talent Study brochure and other staffing tools available on the PCPS Firm Practice Center at *www.aicpa.org/pcps*.

New Practice Management Forums

In May, PCPS launched a new schedule of free online PCPS Practice Management Forums designed exclusively to update members on hot topics facing practitioners. Each live, interactive PowerPoint presentation, given by a nationally known consultant, takes place from 2:00PM to 3:30PM ET. Upcoming sessions include:

- July 17: "Why Clients Leave," with Allan Boress.
- August 21: "Align Your Firm for Success: The 7 S Framework," with Deb Lockwood.
- September 18: "The Risk Assessment Standards," with Chuck Landes.
- October 23: "Recruiting in the 21st Century," with Mark Koziel.

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Membership in PCPS is more valuable than ever. Join now for $35 per CPA, up to a maximum of $700, by visiting ***pcps.aicpa.org/Memberships/Join+PCPS.htm*** or by going to ***www.aicpa.org/pcps*** and clicking the "Join PCPS" button on the home page. If you are already a member but haven't activated your access to the online Firm Practice Center or haven't shared your unique activation link (sent to you this past summer) with others in your firm, now is the time to do so. Contact the AICPA Service Center at 1-888-777-7077, Option 3, or at ***service@aicpa.org*** for assistance or for more information.

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Porter believes that employers could incur liability for stress-related illnesses if their employees feel tied to "electronic leashes," believing that such a tie is necessary to maintain their job or to advance in the organization.

Morris writes, "It is important that companies who require their employees to stay wirelessly connected think about this subject, then put appropriate policies in place, train employees, and prepare for disgruntled employees or spouses claiming an invasion of their personal lives by technology."

Wireless technology once only allowed employees to be in touch with their office. Now, however, it enables employees to do other work away from the office. Porter believes that the employer needs to assume responsibility for drawing a line between being and not being at work. "Silence on the issue," Morris says, "is supposedly a tacit command for longer hours and constant availability."

Working overtime?

Another and "more serious" issue that arises with wireless use by employees away from the office is "the threat of nonexempt employees seeking compensation for time worked while off the clock. . . . To evaluate the risk, it is imperative to know who is, and who is not, exempt under the Department of Labor's updated rules as well as to know how the DOL defines 'working time.'"

Morris provides some information on the DOL rules and he also discusses the "the top five things an employer can do to avoid future liability and take a proactive stand on issues arising from the use of Blackberrys and other PDAs." Included in his guidance is advice to consult counsel as well as human resources and technology officials.

Morris's article is available at ***http://www.law.com/jsp/law/LawArticleFriendly.jsp?id=1173363833179***.

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- November 20: "Succession Assessment: Is Your Firm Being Realistic?" with Robert J. Gallagher.
- December 18: "Build and Run a Successful Financial Planning Practice: Best Practices and Slips to Avoid," with Walter M. Primoff.
- January 22, 2008: "The Small Firm Advantage," with Jim Metzler.

Members will receive e-mail announcements on how to register for each forum.

Letters to the Editor

The Practicing CPA **encourages readers to write letters on practice management issues and on published articles. Please remember to include your name and telephone and fax numbers. Send your letters by e-mail to** ***pcpa@aicpa.org.***

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