

21st Annual  
Labor Law Forum  
Thursday, May 7, 2009  
Qwest Center Omaha

**BAIRD HOLM** LLP  
ATTORNEYS AT LAW

# 2009 LABOR LAW FORUM

## ||| SPECIAL GUEST SPEAKER

• Dr. Ernie Goss, MacAllister Chair of Regional Economics,  
Creighton University

- The Midwest Economy: What it Means for Employers
- Key Employment Law Developments and Trends
- War Stories: Lessons from Recent Jury Trials
- Employee Benefits Law Update
- The ADA Amendments Act
- Family Responsibility Discrimination
- Employment Case Law Update
- The New FMLA Regulations
- Immigration Update
- FLSA and State Wage Law Class Actions
- The Employee Free Choice Act



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2009 LABOR LAW FORUM

Registration is available  
online at [bairdholm.com](http://bairdholm.com)

Company \_\_\_\_\_ Phone \_\_\_\_\_

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Name and title \_\_\_\_\_ E-mail \_\_\_\_\_

**Select one track from each time slot:**

- |              |   |             |  |
|--------------|---|-------------|--|
| <b>10:45</b> | <input type="checkbox"/> Employee Benefits Law Update         | <b>3:45</b> | <input type="checkbox"/> Immigration Update                    |
|              | <input type="checkbox"/> The ADA Amendments Act               |             | <input type="checkbox"/> FLSA and State Wage Law Class Actions |
|              | <input type="checkbox"/> Family Responsibility Discrimination |             | <input type="checkbox"/> The Employee Free Choice Act          |

**Register by May 1 online at [bairdholm.com](http://bairdholm.com)** or mail to  
Baird Holm LLP  
Attn: Sara Obermeyer,  
1500 Woodmen Tower, 1700  
Farnam St., Omaha, NE 68102  
For further information, please  
contact Sara at 402.636.8316.

**Number of attendees:**

**Labor Law Forum** \_\_\_\_\_ x \$125 prior to May 1; \$150 after May 1 \$ \_\_\_\_\_

**Best Places Luncheon** \_\_\_\_\_ x \$35 per person; \$350 per table of 10 \$ \_\_\_\_\_

**Total**

*Labor Law Forum fee does not include registration for Best Places to Work Luncheon.*

**Hotel Information:** *A block of hotel rooms has been reserved at the Fairfield Inn and Suites in Downtown Omaha at a special group rate. Standard King and Double/Double guest rooms may be reserved for \$119 a night. For more information, or to reserve your room, please visit the Fairfield Inn and Suites link on the Labor Law Forum event page at [www.bairdholm.com](http://www.bairdholm.com) or call the hotel directly at (402) 280-1516 and use group code BHIC. Reserve by April 29, 2009 to receive the special group rate. Complimentary shuttle service will be available to and from the Qwest Center Omaha.*

The 21st Annual Baird Holm Labor Law Forum has been pre-approved for 6.25 recertification credit hours toward PHR, SPHR and GPHR recertification through the HR Certification Institute. For more information about certification or recertification, please visit the HR Certification Institute Web site at [www.hrci.org](http://www.hrci.org). The Labor Law Forum has also been pre-approved for Continuing Legal Education Credit in Iowa, Kansas, Missouri, Colorado and Wyoming. This approval means that time spent in continuing legal education activities incorporated in this accredited program may be credited against the continuing legal education requirements in the above mentioned states.

## SCHEDULE

- 7:45 Registration and Continental Breakfast** - Sponsored by C&A Industries
- 8:15 Welcome and Introduction**, *Chris Hedican*
- 8:30 The Midwest Economy: What it Means for Employers**, *Ernest Goss, Ph.D.*  
The world economy is in recession. What can we expect for Omaha and the rest of the Midwest? Baird Holm is pleased to have Dr. Ernest Goss, the Jack MacAllister Chair of Regional Economics from Creighton University and a Scholar in Residence at the Congressional Budget Office for 2004, answer these questions. Dr. Goss created the rural Mainstreet Index and Mid-American Outlook, which gauges business activity in the Midwest. Major publications, including *The Wall Street Journal*, regularly cite these reports. Dr. Goss will discuss the current and projected state of the economy in the Midwest for the remainder of the year and what it means for Midwest employers.
- 9:00 Key Employment Law Developments and Trends**, *Scott S. Moore*  
Each year there are a number of legislative and regulatory changes to employment law. In addition, the new administration promises to bring more change to employment law than employers have experienced in over a decade. We will provide an executive overview of these changes, their effect on employer compliance programs, and the prospects of the bills becoming law.
- 9:45 War Stories: Lessons from Recent Jury Trials**, *Allison Balus, Chris Hedican and Scott P. Moore*  
Over the last 10 months, Baird Holm attorneys from the Labor, Employment and Benefits Group have tried three federal court employment jury trials in several different states. This panel will discuss what employers can learn from these trials to minimize their risk of future litigation and to improve their chances of success if they must engage in litigation.
- 10:30 Break** - Sponsored by Right Management
- 10:45 Morning Break-Out Sessions:**
- Employee Benefits Law Update**, *Amy Erlbacher-Anderson, Gary Clatterbuck and Adam Cockerill*  
A down economy presents complicated benefits issues from COBRA to suspension of employer 401k matches. Baird Holm's benefit team will address these issues and update you on the latest developments in benefit law, including new COBRA requirements in the American Recovery and Reinvestment Act of 2009.
- The ADA Amendments Act**, *Scott P. Moore and Quinn Vandenberg*  
The Americans with Disabilities Act Amendments Act (ADAAA) expanded the definition of "person with a disability" to encompass millions of additional employees, and employers must prepare to accommodate more employees in the workplace. Review these changes and learn practical guidance on what measures employers should implement to comply with the ADAAA.
- Family Responsibility Discrimination**, *Alison Dempsey and Heidi Gutttau-Fox*  
Although the federal EEO laws do not prohibit discrimination against caregivers explicitly, there are circumstances in which discrimination against caregivers might constitute unlawful discrimination under Title VII, the ADA, or the FMLA. This session discusses the EEOC enforcement guidance on discrimination against such persons and shares practical advice for employers.

- 11:45 "Omaha's Best Places To Work" Awards Luncheon** - Sponsored by Baird Holm LLP and The Greater Omaha Chamber of Commerce  
Please join us at the Qwest Center for lunch as we hear from this year's winners about how they became a "Best Place to Work" in Omaha. (Separate registration and fee required).
- 1:30 Employment Case Law Update**, *R.J. (Randy) Stevenson*  
Courts continued to issue significant new decisions this past year. Learn about the important federal and state court decisions concerning employment law and what your organization should be doing in light of them.
- 2:30 The New FMLA Regulations**, *Kelli Lieurance, Scott S. Moore and R.J. (Randy) Stevenson*  
The United States Department of Labor issued new Family Medical Leave Act Regulations, which became effective in January 2009. These regulations introduced significant changes in how employers must communicate and administer FMLA leave. Learn how these new regulations help and hurt employers and what you must do to comply with their requirements. A panel will answer your questions regarding this legislation at the end of the presentation.
- 3:30 Break**
- 3:45 Afternoon Break-Out Sessions:**
- Immigration Update**, *Amy Erlbacher-Anderson*  
On May 21, 2009, all federal contractors must participate in E-Verify, an internet system operated by the Department of Homeland Security that allows employers to electronically verify the employment eligibility of new employees. Some states are considering bills which obligate employers with a license, contract or grant from the state to participate in E-Verify. Some of the bills include significant penalties, including revocation of the right to conduct business. Review these laws, the new I-9 form and instructions, and other timely immigration issues.
- FLSA and State Wage Law Class Actions**, *Allison Balus*  
Retailers and meat processors have been subjected to numerous class action claims for alleged violation of federal and state wage and hour laws. A major employer recently settled several class action claims for hundreds of millions of dollars. Experts project a significant increase in such claims given the poor economy, particularly in retail and health care settings. Baird Holm is defending a dozen such class claims. This session explains the nature of these claims and what employers can do to prevent and prepare for such lawsuits.
- The Employee Free Choice Act**, *David Kramer*  
During the campaign, President Obama promised that the Employee Free Choice Act would be one of the first bills he would sign into law. If enacted, the act would radically change how unions are certified and would make it easier for unions to succeed in organizing an employer's workforce that affects virtually all employers. This session will review the basic features of the law and general strategies employers should implement.
- 4:45 Forum Concludes**

## GUEST SPEAKER

**Dr. Ernest Goss** received his Ph.D. in Economics from the University of Tennessee in 1983. Among his many accomplishments, Dr. Goss has published more than 80 research studies focusing primarily on economic forecasting and on the statistical analysis business and economic data. Dr. Goss has noted and quoted research that appears regularly in newswires and publications such as *The New York Times*, MSNBC, *Investors Business Daily*, *The Wall Street Journal*, *The Christian Science Monitor*, *The Los Angeles Times* and *The Chicago Sun Times*.

## ATTORNEY SPEAKERS

**Allison Balus** primarily represents clients with respect to employment law and litigation issues, particularly those involving the Fair Labor Standards Act, wage and hour class actions and employment discrimination charges and lawsuits.

**Amy Erlbacher-Anderson** practices primarily in the areas of employee benefits and immigration. Prior to entering private practice, she practiced tax law overseas.

**Gary Clatterbuck** regularly represents clients with respect to all aspects of ERISA compliance and employee benefit programs, including pension and 401(k) plans, deferred compensation, fringe benefits, stock options and executive compensation. His practice also focuses on general taxation, business planning and public employee retirement systems.

**Adam Cockerill** is a member of the firm's Labor, Employment and Employee Benefits Group. He practices primarily in the areas of employee benefits, ERISA, tax law and public employee retirement systems.

**Alison Dempsey** represents employers in proceedings before federal, state, and local anti-discrimination agencies, the National Labor Relations Board, the Nebraska Commission of Industrial Relations, and the Iowa Public Employment Relations Board; defends employers against charges of discrimination, sexual harassment, retaliation, and unfair labor practices.

**Heidi Gutttau-Fox** represents employers in employment litigation in state and federal courts, including claims of discrimination, retaliation, harassment, wrongful discharge, non-compete violations and other employment-related matters. She also regularly handles ERISA litigation.

**Chris Hedican** leads the employment litigation practice for the firm's Labor, Employment and Benefits Law Group, defending all types of employment claims. He also handles non-compete, fiduciary and ERISA litigation. He regularly defends cases in state and federal courts for firm clients throughout the country, but particularly in the Midwest.

**David Kramer** represents public and private sector clients with a special emphasis on government and community relations, lobbying, management-side labor and employment law, and education law.

**Kelli Lieurance** advises clients on general day-to-day employment issues, including those related to the FLSA, FMLA, and other federal and state regulations. She also advises and defends employers on EEO matters, and both develops and has successfully defended several Affirmative Action programs before the OFCCP.

**Scott P. Moore** defends employers and housing providers (including architects, engineers, developers, management companies, nonprofit associations and real estate professionals) in all civil rights matters. As Deputy Chief of the Employment Litigation Section of the Civil Rights Division in Washington, D.C. he led the section's Title VII enforcement and served as lead counsel on high-profile Title VII pattern or practice matters brought by the Department of Justice.

**Scott S. Moore** regularly represents employers in various industries with respect to labor relations and employment matters, including personnel policies and decisions, labor negotiations, preventive planning, immigration, workplace safety, equal opportunity, and the defense of employment-related claims.

**R. J. (Randy) Stevenson** leads the firm's Labor, Employment and Benefits Law Group. He represents private and public employers in all aspects of labor and employment law. Areas include: wrongful discharge and discrimination, labor-management litigation, Occupational Safety and Health Administration proceeding, proceedings before the National Labor Relations Board, union organizing campaigns and labor negotiations.

**Quinn Vandenberg** represents employers in employment litigation in state and federal courts, including claims of discrimination, retaliation, harassment, wrongful discharge, non-compete violations and other employment-related matters.