

PUBLICATION

No End in Sight: What's Next for EFCA, E-Verify, ADA Amendments Act and More

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The EFCA isn't dead yet, and the Equal Employment Opportunity Commission has not only weighed in on the ADA Amendments Act, but also issued new discrimination guidance for employees. E-Verify keeps on looping around, and what's this about the unions and email policies? Catch up on the latest happenings in Washington below.

It's Not Over Yet: What You Don't Know About the EFCA: After overwhelming opposition from businesses, other employers and a tremendous investment of resources by the U.S. Chamber of Commerce, supporters of the so-called "Card Check" bill have conceded defeat with respect to the most controversial provision of the EFCA. But did you know that the EFCA also seeks to change the nature of the bargaining process for the first contract between a new union and the employer via its "first contract arbitration" provision?

Employment Verification Developments: A Vortex of Stress: DHS has announced that it will move ahead with requiring use of E-Verify for federal contractors effective September 8, 2009, but will retract the Bush Administration's "safe harbor" regulation relating to Social Security Administration "No-Match" letters. DHS has now shifted its focus from massive raids with deportations to targeted audits, fines and prosecutions of employers concerning I-9 compliance.

ADA Amendments Act - EEOC Comments on Proposed Rules: On June 17, 2009, the Equal Employment Opportunity Commission (EEOC) voted in favor of revising its rules to conform to the ADAAA, which requires courts to interpret the ADA broadly when determining whether an individual has been discriminated against because of a disability. These amendments, as well as the proposed rules, will make it easier for individuals seeking protection under the ADA to establish that they have a disability.

New EEOC Guidance for Employees (That's Right - Employees!): On July 15, 2009, the EEOC issued a technical assistance document entitled, "Understanding Waivers of Discrimination Claims in Employee Severance Agreements." Remarkably, this document is not intended to provide guidance to employers on how to comply with various employment-related laws, but rather it is intended to provide guidance to employees who may receive such an agreement.

The Union Wants to See Your Email Policy: Two weeks ago, the U.S. Court of Appeals for the District of Columbia reversed an NLRB decision which allowed employers to prohibit union solicitation through emails, impacting union and non-union employers alike.

Baker Donelson stands ready to assist you with these and all other labor and employment-related challenges. For assistance, please contact your Baker Donelson attorney or any of our nearly 70 Labor & Employment attorneys in the Firm's Labor & Employment Department, located in *Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; and Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee.*

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