

## Editor's Note

*If you don't know where you are going, you might wind up someplace else. – Yogi Berra*

Dear Clients, Colleagues, and Friends:

The single most important thing we can do for our clients, our *raison d'être*, is to help you determine where you are going, and how to get there. The “there” may change, voluntarily or involuntarily, but our role remains the same: to help you each step along the way.

Economically, 2009 was a difficult year for a lot of people and companies. Although many individuals and companies have weathered the worst, others continue to struggle. Uncertainty remains for many, though there are signs that the economic recovery has begun. Clearly, a full recovery will not happen at the same pace across the country, and may take considerably longer in certain geographical areas or in certain industries. We are more fortunate here in the Midwest than in other parts of the country and world. Those of you with interests or business operations in other states or countries know this well. As you continue to push through trying times, keep in mind that we remain committed to helping you find where you are going, and the best way to get there.

Please accept our best wishes for a happy, healthy, and successful 2010. ■

## 2010 Rollovers to Roth IRAs

by Joan M. Cannon

Deciding whether to roll over an account from an employer plan to an IRA has always required thoughtful analysis. Beginning in 2010, the analysis becomes even more complex because one needs to consider whether to roll all or part of one's account in an employer plan into a traditional IRA or a Roth IRA. Typically, a distribution from an employer plan consists mainly

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of pre-tax dollars which can be rolled into a rollover IRA without any tax consequences, including no withholding and no tax penalty for early withdrawal. But the Economic Growth and Tax Relief Reconciliation Act of 2001 added some complexity to the analysis by giving participants the ability to make Roth after-tax deferral contributions to employer plans, and by allowing a “qualified distribution” from Roth accounts so that both contributions and earnings are not taxable. A participant could also roll over a distribution from a Roth deferral account in an employer plan directly to a Roth IRA without tax consequences.

The change in the rules for a rollover from a non-Roth account in an employer plan to a Roth IRA was not so straightforward. Prior to the Pension Protection Act of 2006 (“PPA”), to be eligible for the advantages offered by Roth IRAs, non-Roth accounts in employer plans first had to be rolled into a conduit IRA, which was then converted to a Roth IRA. With the PPA, distributions from a non-Roth account in an employer plan could be rolled directly to a Roth IRA beginning on January 1, 2008. However, before January 1, 2010, an individual had to have an adjusted gross income under \$100,000 and, if married, had to file jointly, in order to qualify to roll over a non-Roth account in an employer plan directly to a Roth IRA. These two restrictions – the income limitation and the joint filing requirement - will no longer apply as of January 1, 2010

due to the Tax Increase Prevention and Reconciliation Act of 2005 (“TIPRA”). TIPRA also provides that the taxable amount in 2010 from such a rollover to a Roth IRA is included in the participant’s gross income ratably in 2011 and 2012, unless the participant elects otherwise. For distributions after 2010, the taxable amount will be required to be included in gross income in the year of the distribution.

The easing of the restrictions on rollovers of non-Roth accounts to Roth IRAs opens the door for interesting and thoughtful tax planning. Any pre-tax dollars that are part of the rollover amount will be taxed, while any after-tax dollars are not taxed at the time of the rollover to the Roth IRA. No mandatory withholding applies and there is no early withdrawal tax penalty on the amount rolled over. But note, the Roth IRA owner could have a tax on an early distribution from the Roth IRA if a distribution is made within five years of the rollover to the Roth IRA.

Among the chief advantages of a Roth IRA are that later payments from the Roth IRA that are qualified distributions are not taxed, including the earnings after the rollover, and the required minimum distribution rules do not apply to the Roth IRA during the owner’s lifetime. But these new rules aren’t for everyone and certainly add even more complexity to some previously straightforward rollover rules. If you have questions, please call Joan Cannon in our Employment, Labor and Benefits Practice Group. ■

## Purchase Money Security Interests: The “Must Have” Tool When Selling Goods on Credit

by David R. Mayer and Joshua K. Norton

The so-called “Great Recession” of 2008-2009 has given many businesses—even the most financially stable ones—plenty of reason to take a hard look at their current business practices and to look for ways to protect themselves in the midst of a turbulent economy, especially when dealing with customers who might not be as financially stable or reliable as they once were. For any business that sells goods on credit, or otherwise provides financing for the purchase of goods, the “Purchase Money Security Interest” or “PMSI” is a “must have” defensive tool. This article explains what a PMSI is, highlights the basic steps for obtaining a

PMSI in equipment and inventory, and provides a few practical pointers when utilizing PMSIs.

Under the Uniform Commercial Code (“UCC”), a PMSI is a security interest in goods that secures the obligation of a purchaser to pay the purchase price for the goods. Priority of a security interest is generally determined by the time when it was perfected (usually by filing a financing statement with the Secretary of State). With a PMSI, however, creditors who provide buyers with “purchase money” achieve superior priority in the goods sold, even with respect to previously perfected security interests. The most common commercial situations where a creditor can obtain a PMSI are when the seller of goods provides financing to the buyer to purchase goods from the seller (*e.g.*, open account sales), or when a third party lender provides financing to the buyer for the purpose of buying certain goods from the seller.

Regardless of whether the PMSI will be in equipment or inventory, a creditor must have signed authorization from the buyer granting a security interest and authorizing the creditor to file the necessary financing statement. Depending on the relationship between the buyer and creditor, the necessary PMSI granting language could be found in any number of types of agreements, including purchase order terms and conditions, credit applications or agreements, supplier/purchase agreements, or separate security agreements.

Assuming the creditor is authorized to take a PMSI, the crucial step in obtaining a PMSI is to properly and timely “perfect” the PMSI by filing a financing statement with the appropriate Secretary of State’s office. Even if the contractual language provides the creditor with the right to take a PMSI, without timely filing to perfect, the creditor has not availed itself of a PMSI.

The steps for perfecting a PMSI vary depending on whether the goods at issue are classified under the UCC as “inventory” or “equipment” when in the hands of the buyer. Under the UCC, the term “inventory” means goods that, in the hands of the buyer, are held for resale or lease, or that constitute raw materials or other materials that are incorporated into products to be resold or leased. “Equipment” means goods that are not inventory, and that are not held by the debtor for resale or lease.

For equipment, the creditor must file the financing statement with the appropriate Secretary of State’s office before the buyer receives the equipment, or within 20 days after the buyer takes possession of the equipment.

If the goods are classified as inventory, then the process requires additional steps, each of which must be completed before the buyer takes possession of inventory. First, the financing statement must be filed in the appropriate Secretary of State's office. Second, the creditor must provide written notice, describing the inventory and the creditor's intent to take a PMSI, to any other creditors of the buyer who have security interests in the buyer's inventory. Most commonly, a buyer may have other creditors that provide working capital and in turn take a blanket lien in the buyer's inventory, or otherwise may have senior creditors that have a blanket lien on all of the assets of the buyer. The existence of such creditors can be determined by conducting a UCC search with the applicable Secretary of State's office.

To obtain a PMSI, it is critical that each of the appropriate steps highlighted above are properly carried out. Although the character of the underlying collateral or debt may require additional analysis and filing considerations, the following are a few general practice pointers to remember when obtaining PMSIs:

**Always have a signed agreement granting a PMSI.** This requires not only ensuring your form documents have the appropriate contractual language, but also ensuring that such documents are routinely signed and returned as a part of your standard process for doing business.

**Timely file the financing statement.** Best practices dictate that, regardless of whether the PMSI will be in inventory or equipment, the financing statement should be filed before delivering the goods to the buyer. If the financing statement is not timely filed, a creditor cannot take advantage of the superior priority that comes with a PMSI.

**File in the correct place.** Sellers must determine the correct place to file the financing statement. If the debtor is a corporation or limited liability company, the filing must be in the state of incorporation or organization. The UCC has different rules for other types of buyers, as well as for different types of collateral beyond equipment or inventory, and applicable state law should be consulted if there is a question as to the appropriate place to file.

**Get the buyer's (debtor's) name right.** To be valid, the financing statement must include the correct debtor name. The best place to obtain this information is from a certified copy of the buyer's organizational documents, available from the Secretary of State's office

in the state of the buyer's incorporation or organization (or, if an individual, other official documents, such as a driver's license).

**Classify goods as equipment or inventory.** As discussed above, determining whether the goods purchased will be considered inventory or equipment in the hands of the buyer impacts the steps that must be taken to obtain a PMSI.

The PMSI is a valuable tool in good economic times and bad, and can provide your business with added protection when it finances the sale of goods. We can help you with establishing a "turn key" system for obtaining PMSIs as a part of your standard business practices, and assist you in perfecting a PMSI in a given situation or with a particular customer. Please let us know if we can help you utilize PMSIs in your business, or if we can further explain the process for obtaining a PMSI. ■

## Exit Strategy: The Process of Selling Your Business - Part 4 of 4

by M. Shaun McGaughey and Eric B. Oxley

A business owner deciding whether to sell a business ("Seller") is often confronted with a mix of emotions. The Seller may be excited to close one chapter of his or her life (which may have included starting, owning, and operating the business), and turning the page on a new chapter (which may include retirement or investing in another business). Regardless of the Seller's experience with business sales, the Seller will almost certainly experience a great deal of anxiety. Our Mergers and Acquisitions/Securities Practice Group helps minimize this anxiety by explaining the process at the inception of the transaction, and then guiding the Seller through the sales process.

This article is the fourth and final part of a four-part series addressing the sale of business process, and will discuss closing and post-closing matters. In Part 1, we addressed the initial steps that the Seller should take to prepare a united front with the appropriate team of key employees and outside advisers, and to take all necessary steps to prepare the business for sale. In Part 2, we addressed finding a buyer for the business ("Buyer"), assuring confidentiality, and the Letter of Intent. In Part 3, we addressed the due diligence and definitive agreement aspects of selling a business.

## Part IV. Let's Close this Deal and Put a Bow on It

After the Buyer and the Seller have agreed to the terms of the definitive transaction agreements, the primary focus shifts to closing the deal. By this point in the process, the Seller may be experiencing deal fatigue, but the light at the end of the tunnel is becoming brighter. This phase of the deal, however, is probably the most crucial of all, so staying focused is critical. As Seller's counsel, our primary goal will typically be to make sure that the contractual conditions to closing are satisfied as soon as possible. Conditions to closing vary depending on the transaction, and may include a pre-closing inventory inspection, the Seller obtaining third party consents, the parties obtaining certain regulatory approvals or, depending on the size of the transaction, allowing certain statutory waiting periods to conclude. After all of the conditions to closing are satisfied or waived, the parties can close the deal.

Historically, a deal closing would involve the principals of the Buyer and Seller, along with their respective attorneys, meeting face to face to sign all transaction documents necessary to close, make the requisite closing payments, and close the transaction. Although these formal face to face closings still take place on occasion, the typical deal closing today is far less formal. The process usually goes like this: (1) the attorneys for the Buyer and the Seller prepare the closing documents for execution; (2) the attorneys circulate signature pages to their respective clients for execution; (3) the attorneys exchange copies of the executed signature pages by email to be held in trust until released; (4) upon confirmation that all signatures are accounted for, the Buyer wires the closing payments to the various recipients, which may include the Seller, the Seller's owners, the Seller's lenders, and, if applicable, the broker, investment banker, or other deal advisors; and (5) upon confirmation that all closing payments were received, the attorneys authorize the release of the signature pages and send confirmation that the deal has closed.

Congratulations are now in order! As the Seller, you can take a deep breath and enjoy the successful navigation of the sale of your business, which is no small feat. Although the majority of the work is now complete, a typical deal will have a multitude of items that need to be completed to finalize the deal process, or, as we like to say, "put a bow on it". The remainder of this article will provide more detail on several typical post-closing matters.

Typically, the definitive agreements will contemplate that the purchase price will be subject to a post-closing adjustment to be completed within 30-90 days. Purchase price adjustments are often included to accommodate for the daily economic changes a business experiences. For example, a Buyer will typically base the purchase price on the assurance that the business will have a specified minimum amount of positive working capital (current assets less current liabilities) as of the day of closing. Because current assets (*e.g.*, inventory and accounts receivable) and current liabilities (*e.g.*, payables) often change daily, a post-closing adjustment is necessary to accommodate for these changes. To the extent there is excess or deficient working capital at closing, the Buyer or the Seller will make a true-up payment to accommodate the difference. The adjustment process may also include a third party audit, which can often lead to disputes, so keeping open communication with your advisers through this process is essential. The good news is, as Seller's counsel, we would have advised back at the early stages of the deal of the impact this adjustment process may have on value, which will have hopefully resulted in a positive impact to the Seller.

If the deal involves the sale of assets, or is treated as such for tax purposes, the allocation of the purchase price among those assets is an important post-closing issue, because the allocation may have material impact on the tax consequences to the parties. There are IRS rules and regulations that govern the allocation, and a Buyer and Seller need to make sure their respective allocations reported to the IRS are consistent.

Buyers sometimes make indemnity claims against the Seller post-closing. Post-closing indemnity claims often involve a multitude of issues, including whether the claim is subject to the indemnification limitations that were negotiated as part of the definitive agreements, what rights a Seller may have to contest such a claim, or the process a Seller must go through to join other parties that may be ultimately responsible. Indemnification battles can be overwhelming if the parties involved do not have an intimate understanding of the transaction and definitive agreements, which is why we stay in communication with a Seller through the post-closing indemnification periods to provide counsel on these issues, as needed.

The closing and post-closing phase of a deal is crucial, but is also the most rewarding phase of any transaction. We do not, however, feel that our job is complete until we have successfully navigated all of the post-closing matters and ultimately "put a bow" on the deal for the Seller. We hope that this series of articles on the sale of

a business was informative. Please contact a member of our Mergers & Acquisitions/Securities Practice Group if you have any questions about this article, any of the previous articles in this series, or the sale process generally. ■

## Employment Law 2009: Year in Review

by Ryan J. Sevcik

We began 2009 with a new President-elect, ambitious legislative agendas on the state and federal level and an uncertain economic climate. Looking back at the year that was, the following is a list of some of the notable changes and issues affecting employers.

**ADA Amendments.** The ADA Amendments Act of 2008 (the “Act”) became effective on January 1, 2009, and proposed regulations implementing the Act were recently issued. The Act overturns several Supreme Court decisions that have narrowed the ADA and the benefits provided to those considered disabled. Employers should be cognizant of the Act’s broadened definition of “disabled” for purposes of the ADA.

**COBRA Subsidy.** Most employers are well-aware of the COBRA subsidy enacted earlier in 2009 in the wake of mass layoffs and economic uncertainty. Although the subsidy is set to expire at the end of 2009, there have been discussions within Congress regarding a potential extension. Employers should be aware of this possibility and prepare budgets accordingly as we move into 2010.

**E-Verify.** It has become increasingly clear that the much-belied electronic verification system, which is cooperatively administered by the Department of Homeland Security and the Social Security Administration, is here to stay. E-Verify is a free, internet-based system that enables employers to verify the identity and work eligibility of new hires against government databases. The Obama Administration has indicated its support of E-Verify and Congress has recently approved the funding of E-Verify for the next several years. Although participation in E-Verify remains voluntary for most employers, significant changes in 2009 mandate the use of E-Verify in certain situations. As of September 8, 2009, certain federal contractors are required to use E-Verify for new hires and for existing employees who perform services related to specific federal contracts. In addition to this new federal requirement, individual states continue to embrace E-Verify with legislation requiring its use

by private and/or public sector employers. In 2009, the Nebraska Unicameral entered the mix with a law requiring public employers and private sector employers that contract with public employers to register with and use E-Verify as of October 1, 2009. Because the maintenance of legal workforces and immigration reform remain key topics of political discussion, employers should be cognizant of federal and state E-Verify requirements to ensure compliance and avoid debarment or other penalties.

**No-Match Regulations Rescinded.** After more than two years of legal challenges, the “No-Match” regulations proposed by the Department of Homeland Security have been officially rescinded. The proposed regulations would have required employers to take certain action upon receipt of a “No-Match” letter from the Social Security Administration or be faced with the possibility of being determined to have “constructive knowledge” of the employment of illegal aliens. Although the rescission of the proposed regulations is good news, there remains a complete lack of official guidance regarding the appropriate response by employers that receive “No-Match” letters. More troubling is the likelihood that the Department of Homeland Security will almost certainly continue its practice of requesting such letters from employers within the context of Form I-9 audits.

**USERRA.** The Uniformed Services Employment and Reemployment Rights Act provides certain rights to employees that serve our country in the uniformed services. With the ongoing wars in Iraq and Afghanistan, 2010 could bring another wave of deployments. Employers should re-familiarize themselves with the provisions of USERRA and the rights afforded to their service-member employees in preparation for this possibility. ■

## We’ve Been Sued. Does the Insurance Company Pick The Lawyer?

by James F. Cann

It happened. The company’s been sued. “Great,” you mumble to yourself as you flip through the pages of the lawsuit. “Just what we need.”

You read the lawsuit. It alleges you breached a contract ... and that you breached a warranty ... and that you were negligent. You flip through the rest of the allegations. They say you acted intentionally ... that

you owe money ... that you've caused damages. A summons attached to it states that you must file an answer to the lawsuit in 20 days. You toss the lawsuit on top of the latest pile that has formed on your desk today, and call Koley Jessen first thing in the morning.

Your insurance is a valuable asset at a time like this. Generally, when coverage exists for a particular claim, the insurance company has duties to (a) defend you, and (b) pay out policy benefits if you are liable. The defense benefit is valuable because litigation can be lengthy and very costly. The payout benefit is obviously valuable because it is the insurance company's money that gets used to pay the claim, and not yours.

Typically, the process begins by tendering the claim to the insurance company in accordance with the policy's requirements for doing so. The insurance company will review the lawsuit and its allegations, and report back with a letter that explains its position.

The letter will typically quote language from your policy, and you may see some language in it that makes you frown. For instance, it may emphasize in several places that the insurance company might not have to pay this claim or defend you. It may say "we reserve the right to deny coverage", or "we reserve the right to withdraw from defending you", or "we reserve our right to commence our own lawsuit to ask a court to determine if we have to pay to defend you and pay this claim." The letter may go on to say that the insurance company has hired a lawyer to defend you.

This type of letter is called a "reservation of rights" letter. Reading such a letter can make you wonder, "Why am I getting all of this denial of coverage language? Isn't that why I bought insurance? What does all this mean?" With regard to the lawyer the insurance company picked, you might wonder because it is someone you've never heard of. Does the lawyer know your company, your business, your people, and your goals? What about your longtime lawyers that you have worked with and come to trust? If the insurance company is leaving the door open to denying coverage, does it really get to pick your lawyer?

### Panel Counsel

To begin, the lawyer referenced in the reservation of rights letter is usually one of many "panel counsel" with whom the insurance company routinely works. Panel counsel are usually lawyers and law firms that have pre-arrangements with the insurance company to handle the company's cases. But you may or may not be comfortable with having one of the insurance

company's panel counsel assigned to defend you in a lawsuit. You may have a preference for a lawyer you have come to know and trust over the years.

### Selecting Your Preferred Counsel and Communicating With the Insurance Company

Selecting your own counsel for a legal dispute can start as early as when you purchase the policy – long before a dispute arises. Talk to your agent about selecting counsel and see about getting your preferred counsel pre-approved. This makes the issue easier because you and your carrier will have agreed ahead of time on your choice of counsel, and this should prevent disputes when a new lawsuit lands on your desk.

If there was no pre-approval, check to see if your policy contains language or an endorsement that permits you to select your own lawyer. Some policies include "choice of counsel" language, which typically provides that your choice is subject to the insurance company's reasonable approval, rate schedules, and billing policies.

If your policy does not have choice of counsel language, you are not necessarily out of luck. Express your choice of counsel anyway. Insurance companies will often honor your request. When expressing your choice, the following will make it more likely that your choice is honored:

- Make your request at the outset of the case before one of the panel lawyers is assigned the case and invests time and energy in it.
- Have your preferred counsel get in touch with the insurance company early and negotiate payment arrangements so that it does not cost the insurance company any more money than it would cost to assign the case to panel counsel.
- Emphasize that geographic barriers are not what they used to be. In today's world of electronic filing in federal courts, we can file lawsuits in Pennsylvania and Chicago as easily as we can file them just a few miles away in downtown Omaha's federal court.
- Emphasize your preferred counsel's knowledge and history of service to your company and demonstrate how that enables your choice of counsel to handle the case more efficiently.
- Demonstrate your preferred counsel's expertise and experience in the kind of case that you are confronted with. Panel counsel are usually experienced litigators too, but a lawyer that has developed particular expertise on a certain type of

case is going to be able to handle it more efficiently than someone who is on the learning curve.

Insurance companies do not want to get into disputes with their customers over policy related matters, so if you make a good case, it makes sense for the insurance company to honor your request.

### Conflicts Of Interest

Potential conflicts of interest must be assessed when determining if panel counsel should be utilized. A conflict of interest exists if the insurance company has interests that are adverse to yours, and if the attorney retained by the insurance company cannot serve one of you without prejudicing the other. Conflicts can arise when the insurance company reserves rights to deny your claim. For example:

- A homeowner sues a contractor for damage to a structure allegedly caused by the contractor's negligence. The facts are not clear about whether the damage happened before the policy was issued or after. The insurance company hires a lawyer to represent the insured, but reserves its rights to deny coverage if the facts show the damage was pre-policy and outside of the coverage period. The insurance company wants to deny the claim, the insured wants coverage, and therein lies the conflict.
- An individual is sued for causing a personal injury. The lawsuit alleges it was a negligent act that produced the injury, and alternatively alleges it was an intentional act. The insurance policy only covers negligent acts, and the insurance company reserves rights to deny coverage if it turns out this was an intentional act. The insured wants this to be an incident of negligence because there's coverage for that. The insurance company, however, would have an interest in this being seen as an intentional act, because then it does not have to pay.

The reservation of rights letter might be loaded with reasons that coverage could be denied. The insurance company may or may not be serious about withdrawing from coverage. Often, the insurance company stays with you throughout the case and never makes good on threats to withdraw or deny coverage. Sometimes, however, the insurance company will hire separate lawyers to file a separate lawsuit against you where the court is asked to declare whether or not the insurance company has to defend or cover you. Now you've got two lawsuits on your hands, and you will need independent counsel immediately.

If your situation is not that drastic, the coverage questions might still be murky enough so that you cannot clearly see what lies ahead. Or there might be issues with defense strategy that come up as the case progresses. Consider:

- You are sued and you later find out the claim is for more than your policy limit. You have a defense to liability, but you do not want the risk of trial because if you lose, you will not have enough insurance to pay the judgment. An opportunity comes along to settle the case for less than the policy limit. You want to take the settlement to eliminate the risk, but the insurance company does not because it thinks it can win the case and avoid a payment.
- You want to proceed with a defense strategy that involves taking a number of depositions and a significant amount of work because you believe it will help your case. The insurance company has strict guidelines for incurring such expenses, and you wonder if the insurance company's interest in controlling costs is adverse to your interest in mounting a zealous defense.

Although these situations can arise in different kinds of cases with varying degrees of intensity, we do not suggest that these issues present problems in all cases where the insurance company picks the lawyer. Nor do we suggest that insurance companies and panel counsel are unethical in dealing with them when they arise. Rather, the purpose of this article is to illustrate some scenarios where there is good reason for you to consult with your own counsel who solely looks out for you. Having separate counsel deal directly with the insurance company in the early stages, or at any time during the case when a potential conflict exists, can help fend off or minimize coverage disputes before they erupt into serious issues. At Koley Jessen, we do that by quickly identifying the issues and efficiently articulating your position to the right people and in a way that avoids the need to duplicate the work or effort already put out by your team members.

The bottom line is that careful attention to selecting counsel is warranted when you are faced with a lawsuit. You want the right people doing the right job at the right time, and this is especially true when a lawsuit gets filed and the stakes are high. Make choice of counsel an agenda item when you review your insurance coverage, and do not hesitate to contact us at Koley Jessen for advice when faced with this situation. ■

## ANNOUNCEMENTS

## Congratulations

We are pleased to announce that **Stacia L. Palser**, **Heather Voegele-Andersen**, and **Kendra J. Ringenberg** have been named Shareholders of the Firm effective January 1, 2010.

Stacia practices with the Real Estate, Environmental and Natural Resources Law Practice Group. She earned her bachelor's degree from the University of Nebraska at Lincoln and her law degree from the University of Colorado School of Law. Stacia is also a LEED Accredited Professional.

Heather is a member of Koley Jessen's Litigation Practice Group. She is a graduate of the University of Mary in Bismarck, North Dakota, and earned her law degree, *summa cum laude*, from Creighton University School of Law.

Kendra practices with Koley Jessen's M&A/Securities Practice Group and the Real Estate, Environmental and Natural Resources Practice Group. She has a bachelor's degree from Nebraska Wesleyan University and a law degree from the University of Nebraska College of Law, both earned with highest distinction.

## Speaking Engagements

On Thursday, November 5th, Koley Jessen's Employment, Labor and Benefits Practice Group held its annual Employment Law Symposium at Ironwood Country Club. **Margaret C. Hershiser**, **Joan M. Cannon**, **Julie A. Schultz**, **Richard D. Vroman** and **Ryan J. Sevcik** spoke on a variety of topics including employee verification requirements, benefit plans, wellness programs, the hiring process, and legislative updates. If you are interested in attending the 2010 Employment Law Symposium, please contact Heather Boozikee at 343-3784.

**Richard D. Vroman** spoke on a panel at the Nebraska Medical Group Management Association Fall Conference in Kearney, Nebraska on Friday, September 25th.

On Friday, October 2nd, **Thomas F. Ackley** and **Matthew J. Speiker** gave a presentation on Third Party Legal

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*The determination of the need for legal services and the choice of a lawyer are extremely important decisions and should not be based solely upon advertisements or self-proclaimed expertise. This disclosure is required by rule of the Supreme Court of Iowa.*

Opinions at the Nebraska State Bar Association's 2009 Real Estate Institute.

**David M. Dvorak** spoke at the Great Plains Federal Tax Institute on Thursday, December 3rd on the topic of "Intermediate Estate Planning: Beyond the Basics".

## United Way Campaign

Koley Jessen again exceeded its internal goal for its 2009 United Way Campaign. After last year's "Easy as Pie" theme, this year's campaign chairs – **Mary Donovan**, **Matt Maser** and **Julie DeWitt** – decided to raise the stakes. This year's event was a firm-wide five card draw poker tournament. All donors were dealt a poker hand as their donations were received early in the week. Players were given the opportunity to draw additional cards for increasing their donations throughout the week and the top five players won the opportunity to play Koley Jessen's resident card shark, **Jim Koley**, in a live final round. The final players were attorneys **Mike Cox**, **Joan Cannon** and **Rick Vroman**, and paralegals **Chris Reynoldson** and **Sandi Armstrong**. The challengers showed up with visors, sunglasses and good luck charms, however, it was not enough. Fittingly, Jim beat the final players left in the game by drawing them "all in" on the last hand — he had been dealt a flush.

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