

important updates for our clients

U.S. Citizenship & Immigration Services Releases New I-9 Form for Employment Eligibility Verification

THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT of 1996 (IIRIRA) mandated a reduction in the number of documents that employers may accept from newly-hired employees during the employment eligibility verification process. Until now, the U.S. Citizenship & Immigration Services (USCIS) has used an outdated version of Form I–9, which failed to indicate that a number of documents were no longer acceptable.

USCIS has revised Form I–9 to bring it into compliance with the 1997 regulation as part of its ongoing efforts to reduce the number of documents used to confirm identity and work eligibility. The most significant change to the revised Form I–9 is the elimination of five documents from List A of the List of Acceptable Documents, which are as follows:

- Certificate of U.S. Citizenship (Form N–560 or N–561)
- Certificate of Naturalization (Form N–550 or N–570)
- Alien Registration Receipt Card (I–151)
- Unexpired Reentry Permit (Form I-327)
- Unexpired Refugee Travel Document (Form I–571)

The revision also added the Unexpired Employment Authorization Document (I–766) to List A, and identified all forms of the Employment Authorization Document with photograph currently in circulation as acceptable List A documents. There are no changes as to how the form is to be completed.

The Form I–9 with a revision date of June 5, 2007 is the **only** version of the form that is valid to confirm the identity and employment eligibility of employees hired on or after November 7, 2007. The revision date is printed on the lower right corner of the form and states "(Rev. 06/05/07) N." All previous versions of Form I–9, in English or Spanish, are no longer valid.

USCIS will also publish a Notice in the Federal Register announcing that it will not seek penalties against an employer for using a previous version of the Form I–9 during a 30–day transition period that begins on the date of publication of the Notice. After the transition period, employers who fail to use Form I–9 (Rev. 06/05/07) N may be subject to all applicable penalties under Section 274A of the INA, 8 U.S.C. § 1324a, as enforced by U.S. Immigration and Customs Enforcement (ICE).

In conjunction with the release of the revised I–9 Form, the USCIS has also released the revised M–274, Employer Handbook, which provides valuable guidance to employers regarding the I–9 employment eligibility verification process. The M–275, Employer Handbook is available online at http://www.uscis.gov/files/nativedocuments/m–274.pdf. \bowtie

Domestic Violence Leave Law

As of July 1, 2007, Florida employers are now required to offer leave to employees for activities resulting from an act of domestic violence. Below is a brief summary of § 741.313, Florida Statutes.

Covered Employers. Section 741.313 only applies to employers with fifty (50) or more employees.

Covered Employees. Section 741.313 only applies to employees who have been employed by the employer for at least three (3) months.

Leave Required. Employers must allow three working days of leave during a twelve-month period if the employee or employee's "family or household member" is a victim of domestic violence.

The employee may use the leave to (1) seek an injunction for protection against domestic violence; (2) obtain medical or mental healthcare for the employee or a family or household member; (3) obtain services from a victim services organization; (4) make the employee's home secure or seek new housing to escape the perpetrator; or (5) seek legal assistance or attend and prepare for court-related proceedings arising from the act of domestic violence. The three days of leave may be with or without pay at the discretion of the employer.

Continued on next page

important updates for our clients

Domestic Violence Leave Law — continued from page 1

Employee's Duties. Except in cases of imminent danger to the health or safety of the employee or family or household member, the employee must provide the employer with advanced notice of the leave and sufficient documentation of the act of domestic violence as required by the employer's policies.

Before utilizing § 741.313 leave, an employee **must** exhaust all annual, vacation, personal and/or sick leave which is available to the employee unless the employer waives this requirement.

Employer's Duties. Employer must keep all information relating to the employee's leave under § 741.313 confidential. Employer may not discharge, demote, suspend, retaliate or in any other manner discriminate against an employee for exercising his or her rights under this Section.

Employers should consider amending their current policies and procedures to include § 741.313 and specifically detail whether the leave is with or without pay, what type of notice and documentation the employer will require and whether or not the employer will require the employee to exhaust all other leave available before utilizing § 741.313 leave. ∞



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Questions?

If you have any questions about the revised Form I–9 or Florida's new domestic violence leave law, please contact one of these attorneys:

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