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FLORIDA
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Vol. 30, No. 3
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What's Inside

What's Online

Podcast
Want to improve workplace transparency? Have a strategy
ow.ly/AXL530jr4F0

Wages
DOL addresses travel time for hourly technicians
ow.ly/p6zB30jzmTN

Taxes
Tax law narrows options on sexual harassment settlements
bit.ly/2q6KAxd

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WHISTLEBLOWING

Legal magic: Disney store obtains dismissal of whistleblower claim

by Sean A. Douthard
Constangy, Brooks, Smith & Prophete, LLP

As many Florida employers are aware, Florida maintains whistleblower laws that provide protections for employees who speak out against or refuse to participate in their employer's unlawful practice or activity. Florida has specific whistleblower laws in place that provide protections for employees in both the public and private sectors. However, what qualifies as a protected complaint or protected activity under Florida's whistleblower laws is not always crystal clear.

As shown by a recent opinion from a Florida federal court, an employee's complaint about her employer's illegal activity does not automatically entitle her to the benefits of whistleblower protection. In the case, Disney Store USA, LLC, was able to drum up a little legal magic and obtain the dismissal of a former employee's claim under the Florida Private Whistleblower Act (FWA) after the employee alleged she was retaliated against for complaining about being stalked by a coworker.

Complaint about spellbound coworker

Rebecca Wolz worked as an assistant manager at a Disney Store USA, LLC, location in Miami. According to her, one of her female coworkers became romantically obsessed with her. The obsession was apparently not a fairy-tale romance story for Wolz. She alleged that the coworker was so obsessed with her that she began stalking her on a daily basis.

After rejecting her coworker's advances, Wolz eventually complained to her supervisors about the alleged daily stalking. However, she claimed her supervisors ignored her complaint and failed to take corrective action. Moreover, she claimed that Disney began harassing her by micromanaging her work and constantly reprimanding her after she complained about the stalking. Wolz alleged the constant harassment ultimately forced her to quit her job.

Following the separation of her employment, Wolz sued Disney. Her lawsuit set forth several allegations against Disney, including a claim of retaliation under the FWA. Specifically, she claimed that Disney retaliated against her because she objected to stalking by her coworker. Notably, stalking is specifically listed as a crime under Florida statute. Accordingly, because the conduct she complained of—stalking by a coworker—was illegal, Wolz claimed that she was entitled to whistleblower protection under the FWA. She cleverly argued that the ongoing stalking became an illegal practice on Disney's part when it permitted the stalking to continue on a daily basis at the workplace with no recourse. Wolz claimed

AGENCY ACTION

DOJ sues California over immigration. U.S. Attorney General Jeff Sessions announced in March 2018 that the U.S. Department of Justice (DOJ) had filed a lawsuit against California based on the state's enactment of laws seen as creating "sanctuary" jurisdictions. The DOJ says three different state laws "intentionally obstruct and discriminate against the enforcement of federal immigration law." The department contends that the laws are preempted by federal law and "impermissibly target the Federal Government, and therefore violate the Supremacy Clause of the United States Constitution."

McDonald's, NLRB settle joint-employment case. The National Labor Relations Board (NLRB) announced in March that McDonald's USA, LLC, and its franchisees had submitted a proposed settlement of unfair labor practices claims to an administrative law judge. The NLRB had alleged that McDonald's was a joint employer with its franchisees. Under the proposed settlement, McDonald's continues to maintain that it is not a joint employer. The proposed settlement is intended to provide 100 percent of back pay for employees and represents a full remedy for all unfair labor practice cases pending before the administrative law judge, according to a statement from the NLRB.

Acosta announces grants aimed at opioid crisis. U.S. Secretary of Labor Alexander Acosta in March announced a new National Health Emergency Dislocated Worker Demonstration Grant pilot program to help communities fight the opioid crisis. The U.S. Department of Labor (DOL) will initially fund seven to 10 pilot programs with awards totaling $21 million. The grants may be used to help provide new skills to workers, including new entrants to the workforce who have been or are being affected by the opioid crisis. Additionally, funds may be used for workforce development in professions that address or prevent problems related to opioids in American communities, such as addiction treatment service providers, pain management and therapy service providers, and mental health treatment providers.

OSHA announces enforcement of beryllium standard. The Occupational Safety and Health Administration (OSHA) announced in March that it would start enforcement of the final rule on occupational exposure to beryllium in general, construction, and shipyard industries on May 11. The start of enforcement had previously been set for March 12. In January 2017, OSHA issued new comprehensive health standards addressing exposure to beryllium in all industries. In response to feedback from stakeholders, the agency is considering technical updates to the January 2017 general industry standard aimed at clarifying and simplifying compliance with requirements. ✤

Disney retaliated against her by subjecting her to alleged harassment that she claimed she experienced after she complained of the stalking.

Nothing more than make-believe

Disney disputed Wolz's allegation that it retaliated against her in violation of the FWA and sought to have the claim dismissed at the outset of the lawsuit. Disney argued that her FWA claim was essentially nothing more than a make-believe legal theory because her complaint of stalking was not protected activity under the FWA. Specifically, Disney argued that her complaint was not protected activity because it did not involve a violation of a law, rule, or regulation applicable to the company and its business.

The FWA prohibits an employer from taking a retaliatory personnel action against an employee because she has objected to or refused to participate in its activity, policy, or practice that's in violation of a law, rule, or regulation. Most Florida courts require an employee to show the activity or policy actually was a violation for the FWA protections to apply. However, at least one Florida court has held that to be considered a protected whistleblower under the FWA, an employee only needs to have a reasonable, good-faith belief that it was a violation. Wolz claimed that she engaged in protected activity under the FWA when she "refused and objected to the stalking" by her coworker. She argued that her complaint to her supervisors about the alleged stalking was protected activity under the FWA because she complained about an activity that violated Florida law.

However, as Disney aptly pointed out, the FWA defines "law, rule, or regulation" as "any statute or ordinance or any rule or regulation . . . applicable to the employer and pertaining to the business." Disney argued that Wolz was unable to assert a valid claim under the FWA because the illegal activity she complained of was not applicable to the company and its business practices. Because stalking is not a crime that could be considered applicable to Disney and its business practices, the employer argued that Wolz had not engaged in protected activity under the FWA and that her claim should be dismissed.

When you wish upon a star (or make a great legal argument)

The court agreed with Disney's argument and ruled that Wolz was unable to establish a legally valid claim under the FWA. In reaching its decision, the court focused on the last phrase in the FWA's definition of "law, rule, or regulation," which provides that the law, rule, or regulation must be "applicable to the employer and pertaining to the business." The court ruled that under the FWA's definition of law, rule, or regulation, the complained-of conduct must be in violation of a law, rule, or regulation that is somehow specifically applicable to the business as opposed to the public at large.

The court also ruled that laws against illegal conduct such as theft, battery, threats, and sexual harassment are considered laws of general applicability. Accordingly, the court held that Wolz's complaint that Disney violated Florida's stalking law was not a complaint of a violation of a law, rule, or regulation

that was specifically applicable to Disney's business. Because Wolz did not complain of a violation of a law that was specifically applicable to Disney's business practices, the court held that she was not protected under the FWA and dismissed her FWA claim against Disney.

Takeaway

This case provides employers a good refresher of their responsibilities to employees under the FWA. This case also highlights that not every employee complaint of an employer's allegedly illegal activity will be protected activity under the FWA. For an employee to assert a legally valid claim against an employer under the FWA, she must be able to show that the employer engaged in a violation of a law, rule, or regulation that is specifically relevant to the nature of its business as opposed to the public at large.

Even so, be mindful of the potential headaches, costs, and negative publicity that you may face if forced to defend against an employee's whistleblower claim, even if the claim is meritless. Be proactive in taking steps to prevent such claims. Engage in workplace training on procedures for reporting illegal activity, and maintain open-door complaint policies for improper or illegal conduct. Employees should not be discouraged from making complaints of suspected improper or illegal activity.

Also, be cautious not to engage in retaliation of any sort. If an employee engages in some form of protected activity, the best practice is to treat her the same the day after she engaged in protected activity as you did the day before she engaged in the activity. Try to put as much time as possible between an employee's protected activity and any adverse personnel decision against her. Patience is a virtue! Remember, all an employee has to show to establish a claim of retaliation is that (1) she engaged in protected activity, (2) she was subjected to an adverse personnel decision, and (3) there was a causal connection between the protected activity and the adverse action. Take extra precautions when dealing with an employee who has recently engaged in protected activity. It would be wise to make certain that an employee has no basis to connect her protected activity to an adverse decision against her.

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WAGES

Congress pins down tip-pooling requirements

When Congress passed another spending bill in March 2018, few people were expecting it to resolve a somewhat obscure and highly technical dispute over how employers allocate tips among their workers. Nevertheless, that's exactly what the law does, and the result is much-needed clarity on the topic. Let's take a closer look at tip pools, their history, and what the new law accomplishes.

Some background

Under the Fair Labor Standards Act (FLSA), employers are allowed to count a portion of an employee's tips as wages to satisfy minimum wage requirements. More specifically, although the federal minimum wage is $7.25 an hour, employers can pay tipped workers an hourly rate as low as $2.13 per hour if the workers' tips bring their pay up to at least the full minimum wage. This is called a "tip credit."

It has long been accepted that employers using the tip credit could create a "tip pool" through which all tips are collected and then redistributed evenly among tipped workers who are paid the $2.13 minimum wage (and no one else).

The bigger question over the years has been the proper distribution of tip-pool proceeds when an employer pays tipped workers the full minimum wage and therefore doesn't need to use the tip credit. Courts disagreed on whether such employers could distribute the tip pool among all employees, even those who didn't customarily receive tips (such as kitchen and maintenance staff). In 2011, the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) issued regulations that said no, they couldn't. Those regulations were challenged, and some courts said they were invalid.

In December 2017, the DOL started the process of undoing the 2011 regulations, proposing new rules that would have allowed employers to distribute a tip pool not only to tipped workers but also to nontipped ones. For a relatively obscure issue, this proposal received a surprising amount of negative press coverage. Some argued that it would allow a company's owners to distribute the tip pool to employees making far more than the minimum wage—or even keep the pooled tips for themselves. It appears the new tip-pool provision was included in the spending bill at least partially in response to the negative press coverage.

What the law provides

The new provision:

- Allows employers to distribute money from tip pools to both tipped and nontipped employees as long as all employees are paid at least the full minimum wage of $7.25 per hour (not the tipped minimum wage of $2.13);
- Prohibits employers from distributing any part of the tip pool to owners, managers, or supervisors; and
- Requires employers that pay the tipped minimum wage to distribute the tip pool only to employees who contribute to the pool, just like under the 2011 regulations.

Finally, remember that there is no requirement to use a tip pool at all. You could just allow all employees to keep the tips they individually receive, as long as their compensation after tips is at least $7.25 per hour.

What to do next

If you have tipped employees and either currently use a tip pool or are interested in adopting or expanding one, consider these next steps:

- First, consult your state law to see whether it has different requirements for tipped employees. Some states require all employees to receive the full minimum wage, while others may limit the percentage of tips that may be contributed to a pool. Those laws would take precedence over the FLSA.
- If you haven't already, decide whether to compensate your tipped employees using the tipped minimum wage (assuming your state law allows it) or the full minimum wage.
- If you use the tipped minimum wage, decide whether you are going to require employees to share those tips through a tip pool. If you do, make sure that:
  - The tip pool is distributed only to the employees who are contributing to it; and
  - All such employees ultimately make at least the minimum wage after tips are added in.
- If you want to implement a tip pool for tipped employees who are paid the full minimum wage:
  - Select which categories of nontipped employees will be allowed to benefit from the tip pool. You might want to consult with your attorney if you are interested in distributing tips to employees who conceivably could be considered a "manager" or "supervisor." Those terms aren't defined, and the borders between employee and supervisor can be unclear.
  - Give careful consideration to any adverse effects the change may have on your workforce morale. Employees who currently make a lot of money in tips aren't going to be happy about being forced to share them with nontipped staff.

Takeaway

Florida's minimum wage is $8.25 per hour, which is higher than the federal minimum wage of $7.25. Employees in Florida are entitled to be paid the higher Florida minimum wage. The minimum wage applies to most employees in Florida with limited exceptions, including tipped employees, some student workers, and other exempt occupations.

Florida allows tipped employees to be paid a lower cash wage than the standard Florida minimum wage. Up to $3.02 in tips earned per hour can be deducted from their wage as a "tip credit." That means with the maximum tip credit taken, tipped employees must be paid a cash wage of at least $5.23 per hour, for a total minimum compensation of $8.25 per hour (including tips). ✤

AGE DISCRIMINATION

Discrimination when age is a proxy for another factor—insight from a FL appeals court

by Jeffrey D. Slanker
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Just because two things may be related does not mean that they are one and the same. An issue many employers face every day is the cost of older employees. Of course, many employees who have been in the workforce for lengthy periods of time enjoy high salaries, but that does not mean that action directed toward addressing salary costs is inherently biased because of age. A Florida appellate court recently addressed that exact issue in Yaro v. Israel. The court held that an action taken against an employee because of a factor that may correlate to age in some circumstances is not necessarily discrimination on the basis of age.

What happened?

Elliot Yaro was an employee of the Broward County Sheriff's Department. He was employed as a child protective investigator, but he was demoted from his position. He subsequently filed suit, alleging disability and age discrimination. After the trial court dismissed his case, the matter was appealed to the Florida 4th District Court of Appeals (DCA).

The court of appeals affirmed the decision to dismiss the disability discrimination claim without much discussion. But it provided interesting commentary on the nature of Yaro's age discrimination claim and its merits, or lack thereof.

Appellate court's decision

The appellate court upheld the trial court's dismissal of the age discrimination claim, noting that just because what motivated an employer to take an adverse action against an employee had a correlation to age doesn't mean the action was because of age. Yaro testified that a major in the sheriff's department told him that he was being demoted so the department could use his high salary to employ more investigators. The court reasoned that while Yaro's high salary may have been correlated to his age, age itself was not the reason for his demotion. Rather, the reason for the demotion was to employ more investigators at lower salaries.

The court cited the U.S. Supreme Court case *Hazen Paper Company v. Biggins,* which involved the termination of an employee to prevent the employee from receiving pension benefits and whether the decision was age discrimination. The Supreme Court noted that the vesting of pension benefits might be correlated to age, but the decision did not necessarily equate to age discrimination. From a logical perspective, a person under age 40 might have vested retirement benefits, depending on the vesting schedule and when he began employment. The 4th DCA further noted that the U.S. 11th Circuit Court of Appeals (whose rulings apply to all Florida employers) held similarly in *Broaddus v. Fla. Power Corp.*

Takeaway and important side notes

Employers should note that just because an action may have a correlation to age does not necessarily mean the decision was made because of a discriminatory animus based on age if age played no role in the decision. That said, decisions made to change an employee's status because of his ability to claim a retirement or other benefit could very easily trigger and even violate the Employee Retirement Income Security Act of 1974 (ERISA), a federal statute regulating and providing minimum standards for retirement and health plans.

Furthermore, claims of disparate impact could be an issue when taking an action or instituting a policy that might be neutral in intent but have an adverse impact on a protected class.

WORKPLACE TRENDS

Survey finds global engagement levels at all-time high. Global employee engagement levels hit an all-time high in 2017, according to research from Aon, a global professional services firm. The 2017 figures follow a dip in engagement levels the previous year. Aon's analysis of more than five million employees at more than 1,000 organizations around the world found that global employee engagement levels reached 65% in 2017, up from 63% in 2016. The percentage of employees who were highly engaged increased from 24% in 2016 to 27% in 2017. Aon research shows that a five-point increase in employee engagement is linked to a three-point increase in revenue growth in the subsequent year.

Research finds promising résumés often disappoint. Research from global staffing firm Robert Half finds that employers impressed by a job candidate's résumé often discover the person isn't such a good match for the job after all. More than six in 10 senior managers (64%) said it's common for an applicant with a promising résumé to not live up to expectations when interviewed. The survey also looked at how much time employers spend assessing job candidates. The research found that on average, managers review 40 résumés per job opening and spend 12 minutes looking at each one. Verifying relevant experience is the top reason employers interview job candidates, followed by assessing soft skills and corporate culture fit and evaluating technical skills.

Research finds 44% of professionals lose sleep over work. Staffing firm Accountemps has released research finding that 44% of professionals often lose sleep over work. Common causes include an overwhelming workload, a looming business problem, and strained coworker relationships. The research found that professionals in Miami, Nashville, and New York most often lose sleep over work-related issues. Survey respondents in Cleveland, Philadelphia, and Minneapolis were least likely to report missing out on rest.

Survey looks at excuses for being late to work. A survey from CareerBuilder released in March looks at unusual excuses employees give for being late for work. When asked about the most outrageous excuses employees have given, employers shared the following: It's too cold to work; I had morning sickness (it was a man); my coffee was too hot and I couldn't leave until it cooled off; an astrologer warned me of a car accident on a major highway, so I took all backroads, making me an hour late; my dog ate my work schedule; I was here but fell asleep in the parking lot; my fake eyelashes were stuck together; and although it's been five years, I forgot I did not work at my former employer's location and drove there by accident. ✤

UNION ACTIVITY

Unions, graduate workers demand bargaining at universities. Graduate workers along with leaders from four major unions in March 2018 delivered letters to the presidents of Yale, Columbia, Boston College, the University of Chicago, and Loyola of Chicago demanding that the university administrations accept unionization of research and teaching assistants and enter into collective bargaining. The unions—the American Federation of Teachers, the Service Employees International Union, the United Auto Workers (UAW), and UNITE HERE—say the universities are refusing to bargain and instead are trying to put the issue in the hands of the National Labor Relations Board (NLRB).

Unions voice support for enforcement actions against China. Union leaders have spoken out in support of President Donald Trump's announcement of enforcement actions against China. "For years, China has employed a variety of strategies to steal our intellectual property and bully its way into acquiring critical U.S. advances in technology," AFL-CIO President Richard Trumka said, adding that tariffs "aren't an end goal, but an important tool to end trade practices that kill American jobs and drive down American pay." Teamsters General President James P. Hoffa also expressed support. "We appreciate that the U.S. government is finally on record condemning the systematic theft of American intellectual property that is part and parcel of the Chinese political and business elites' global business plan," Hoffa said.

Union leaders praise steel tariffs. United Steelworkers International President Leo W. Gerard spoke out in March in support of President Trump's decision to impose tariffs on steel and aluminum imports. Gerard told members of the House Steel Caucus that thousands of laid-off steelworkers would soon be recalled to their jobs as a result of the tariffs. AFL-CIO President Trumka also spoke out in support of the tariffs. "This is a great first step toward addressing trade cheating, and we will continue to work with the administration on rewriting trade rules to benefit working people," Trumka said.

UAW urges release of jailed union leaders in South Korea. The UAW announced in March that a union representative had recently returned from South Korea after trying to secure the release of two key labor leaders jailed for union activity. The UAW International Executive Board passed a resolution calling for the pardon and release of the trade unionists, and UAW President Dennis Williams has raised the issue at high levels of the U.S. and South Korean governments. On the trip, the UAW representative met with the two incarcerated union leaders and pushed for basic labor and human rights. ✤

Given the complexities, involving employment counsel in such decisions would be a wise course of action.

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WAGE AND HOUR LAW

New DOL program offers self-reporting of wage and hour violations

The U.S. Department of Labor (DOL) announced in March 2018 that it is launching a program to allow employers a chance to self-audit their wage and hour practices—and report any violations they find—in exchange for limited protection from additional liabilities and claims. The program, dubbed the Payroll Audit Independent Determination (or PAID) program, will start as a six-month pilot, after which the DOL will decide whether to offer it on a permanent basis.

The primary appeal of the program is that by voluntarily reporting their errors, employers will receive some protection against liquidated damages and civil monetary penalties, which are typically awarded in successful wage and hour lawsuits. Let's take a quick look at how the PAID program works and some of the other pros (and potential cons) of pursuing a resolution of wage and hour violations through it.

Step 1: self-audit of wage and hour practices

According to the DOL, the first step for an employer that wants to take advantage of the PAID program—even before conducting a self-audit—is to complete a Compliance Assistance Review (CAR) on the DOL website at www.dol.gov/whd/paid/. This is primarily a series of videos and other information about compliance with the Fair Labor Standards Act (FLSA), but the DOL says you will have to provide a certificate of completion and submit it to the agency to participate in the program. Note that when you start the CAR, you will be asked to provide both your name and the name of your organization to the DOL.

After completing the CAR, the next step will be to conduct a comprehensive audit of your wage and hour practices with the intent of uncovering violations of the overtime and/or minimum wage requirements of the FLSA. Ideally, the audit should examine all aspects of your wage and hour practices, including (but not limited to):

- Making sure employees are compensated for all hours worked (some common problem areas include failing to pay employees properly for travel time, job-related training, on-call time, working breaks, "donning and doffing" time, and other similar situations);
- Verifying that all employees you have classified as exempt from the FLSA's minimum wage and overtime requirements are classified correctly (some mistakes include making improper deductions from exempt employees' salaries or, more likely, classifying them as exempt based solely on the fact that they receive a salary without any finding that they also perform the necessary exempt duties); and

- Assessing whether you are calculating the overtime rate correctly (common errors include undercalculation of overtime owed because you failed to include various "extra" types of compensation—such as shift differentials and certain types of bonuses—in calculating the overtime rate).

Step 2: interactions with DOL

Once you have the results of your audit—assuming you discover unpaid back wages—the next step will be to report your findings to the DOL office for your region. The DOL asks that when you call, be prepared to describe the violations you have discovered (including the time frame in which they occurred), identify any affected employees, and provide the amount of back wages you believe is owed to each employee. The DOL's Wage and Hour Division (WHD) then will likely:

(1) Request additional information, such as payroll records, job descriptions, and other related information;

(2) Make its own findings and provide you a summary of the amount of unpaid wages owed to each affected employee; and

(3) Provide settlement documents for each employee, which employees may choose to sign if they want to receive payment. Employees who sign the form and accept payment will waive their right to sue for the violations uncovered through the PAID program.

Step 3: payment of back wages owed

Finally, you will be required to (1) pay all back wages due by the end of the next full pay period after receiving the DOL's summary of unpaid wages and (2) provide proof of payment to the WHD expeditiously.

Word of caution

If you're like many employers, voluntarily opening your organization up to scrutiny from a federal agency may sound a bit risky. With a new program such as this one, there's reason to be cautious.

Perhaps the biggest potential pitfall is that there is no guarantee of protection from lawsuits based on the wage and hour problems you voluntarily report to the DOL. None of your employees is required to accept the payment of back wages offered to them. They could choose not to sign a waiver and instead take a very official-looking document showing the amount of back wages you owe them to an attorney. If that happens, there is nothing to prevent them from suing you—not only for the amount of back wages owed but also for liquidated damages and attorneys' fees. This type of situation could also bloom into a class action lawsuit depending on the nature and pervasiveness of the violations found.

If you're interested in participating in the PAID program, a call to your employment attorneys is highly recommended (before you even proceed to Step 1). They can help you examine all the pros and potential cons of the program and reach an informed decision on whether its benefits outweigh any potential risks. ✤

IMMIGRATION

ICE audits: how to prepare in case the federal government comes calling

by Jeffrey D. Slanker
Sniffen and Spellman, P.A.

President Donald Trump has made immigration issues a focus of his administration. Audits and activity by U.S. Immigration and Customs Enforcement (ICE) are increasing throughout the country. Audits or investigations can come at any time, and ICE agents have the authority to request and review certain documents related to employees' citizenship and authorization to work at businesses large and small. Often, visits by ICE agents are unannounced and can startle even employers that have all their ducks in a row. This article provides insight into what you should do both before and during an ICE audit.

Authorization to work and Form I-9s

It seems simple enough—only individuals authorized to work in the United States, whether they are lawful citizens or noncitizens who have authorization (such as a visa) to work, are allowed to work. Employers must take certain steps to ensure that they employ only individuals who are lawfully allowed to work in the United States. Principally, that involves obtaining paperwork from employees that verifies their right to work in the country legally (such as a driver's license, passport, or other document confirming citizenship or right-to-work status) and working with new employees to complete a Form I-9.

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6-13 Safety Department of One: Tips to Managing EHS Program Success with Limited Time and Resources

6-13 People Analytics for HR: What to Measure and How to Accurately Predict Attrition and Successfully Target Performance Roadblocks

6-14 Form I-9 Recordkeeping: How to Complete, Re-Verify, Store, and Destroy Paper and Electronic Files in Compliance with Federal Law

6-18 Temporary Worker Safety-Essential Strategies for Host Employers and Staffing Agencies

6-19 Paperless HR Recordkeeping: How to Navigate Electronic Document Security Risks, Storage, and Destruction in the Cloud

Employers and employees must fill out a Form I-9 to verify employees' work status. Some employers may choose to go through an extra step and use the federal government's E-Verify service, which further confirms employees' right to work. You must obtain and fully complete I-9 forms for all employees. Furthermore, you need to make sure you are using the correct I-9 form, which was updated recently and is available on the ICE website (https://www.uscis.gov/i-9). I-9s should be kept and maintained according to normal record-keeping practices.

What does an ICE investigation entail?

One day out of the blue, one of your employees might be met by an ICE investigator who walks through the door, demands to see certain documents, and maybe even demands answers to certain questions. ICE and the federal government have a right to obtain certain—but very limited—records without a warrant. Those records include completed I-9 forms. However, you are allowed an opportunity to gather the documents and provide them to ICE within a few business days.

The investigator will gather I-9 forms and request other documentation from you. He will then review the forms to determine if they are properly filled out and whether there are or have been employees who were not authorized to work in the country. The investigator's determination will result in a notice to the company if there are any issues. A finding that individuals have been employed illegally could carry with it fines and even criminal penalties in some circumstances.

What should I do, and how do I prepare for an ICE investigation?

The best way to prepare for a potential ICE audit is to perform an audit yourself to make sure that all paperwork verifying employment status is complete and in order. Indeed, performing a self-audit to ensure that complete and accurate records have been obtained and that employment status has been properly verified with supporting documentation is the best preventative in anticipation of an investigation. Working with employment and immigration counsel to get ready for a potential investigation will pay off in spades should you ever find yourself addressing an ICE agent walking through the front door of your business.

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