

## I-9 COMPLIANCE FOR EMPLOYERS: Significantly Increased Fines for Employers

August 24, 2016



By: John R. LaBar

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To aid in the enforcement of the obligation on employers to hire only individuals authorized to work, the Immigration Reform and Control Act of 1986 (the “IRCA”) requires employers to verify the employment eligibility of all new employees at the time they are hired. Every employee hired to perform labor or services in return for wages or other remuneration must complete an *Employment Eligibility Verification Form* (Form I-9). The most recent version of Form I-9 has an issuance date of March 8, 2013 with an expiration date of March 31, 2016; however, U.S. Citizenship and Immigration Services has directed that employees should, until further notice, continuing using the current Form until a new form is issued.



While many employers may view completion of the I-9 as merely as paperwork hassle, incomplete forms and mistakes made during the completion of the form may result in significant fines for employers.

On June 30, 2016, the U.S. Department of Justice published a Final Rule in the Federal Register that will significantly increase fines for Form I-9 violations that include incorrect Form I-9 paperwork, unlawful employment of unauthorized workers, and unfair immigration-related employment practices.

The “*Civil Monetary Penalties Inflation Adjustment*” substantially increases fines for errors by employers in the completion of Form I-9, as fines are being adjusted for inflation from the date of their initial enactment. Fines are being increased in the following way:

- **Form I-9 Paperwork Violations (8 U.S.C. § 1324a(e)(5))**: For the first offense, the minimum fine will increase from \$110 to \$216 per Form I-9 violation, while the maximum fine will increase from \$1,100 to \$2,156 per Form I-9 violation. Fines for second and third offenses will also increase.
- **Unlawful Employment of Unauthorized Workers (8 U.S.C. § 1324a(e)(4)(A)(i))**: For the first offense, the minimum fine will increase from \$375 to \$539, while the maximum fine will increase from \$3,200 to \$4,313 per worker. Fines for second and third offenses will also increase.



- **Unfair Immigration-Related Employment Practices (8 U.S.C. § 1324b(g)(2)(B)(iv)(I))**: The minimum penalty will increase from \$375 to \$445 while the maximum penalty will increase from \$3,200 to \$3,563 per charge. Repeat offenders will face a new maximum penalty of \$21,563.

While the Final Rule takes effect on August 1, 2016, the increase in penalties will apply to violations that took place after November 2, 2015, when the Bipartisan Budget Act of 2015, which mandated that federal agencies adjust all civil penalty amounts for inflation, was signed into law.

With the significant increases in fines for Form I-9 and other immigration law violations, it would be wise for employers to conduct an audit of their Form I-9 and immigration law compliance practices to make certain that your organization is properly completing the Form I-9 process and has appropriate Form I-9 policies and employment eligibility verification procedures.

*If you have any questions about I-9 compliance issues for your organization, John R. LaBar is available to consult with employers regarding a review of their employment law and HR needs.*

*This publication is a service to our clients and friends. It is designed to give only general information on the topic actually covered and is not intended to be a comprehensive summary of recent developments in the law, to treat exhaustively the subjects covered, to provide legal advice, or to render a legal opinion.*



John R. LaBar is a named member of Henry, McCord, Bean, Miller, Gabriel & LaBar, P.L.L.C. His practice includes assisting business and corporate clients in business/corporate, real property, tax, intellectual property, creditor bankruptcy, corporate litigation and all aspects of labor and employment law matters. He has served as an Adjunct Professor of Law at the University of Tennessee College of Law, is a frequent author in legal newsletters, and is often a speaker and acts as faculty for legal education seminars on employment law topics.