

EMPLOYMENT LAW UPDATE

Relationship-Driven Results

March 23, 2020

Department of Homeland Security Temporarily Modifies Requirements for In-Person Review of I-9 Documents

The Department of Homeland Security (“DHS”) announced a temporary relaxation of the rules for reviewing I-9 documents in person with new employees. Under normal circumstances, a representative of the employer must review the employee’s identity and employment authorization documents in the employee’s physical presence. Per the DHS announcement, employers operating remotely due to COVID-19 precautions may now inspect these documents by remote means (e.g., by videoconference, fax, or email) and obtain, inspect, and retain copies of the documents (as opposed to originals) within three business days. This change is in effect for 60 days (until May 19, 2020) or three business days after the termination of the national emergency, whichever is sooner.

Notably, this modification applies only to employers operating remotely in response to the COVID-19 pandemic. Where a new employee is physically present at the worksite, the employer may not avail itself of this alternative process; the pertinent documents must still be reviewed in the employee’s physical presence. The employer is responsible for providing written documentation of its remote onboarding and telework policy for each employee.

Once normal operations resume, all employees onboarded using remote verification must report to the employer within three business days to complete an in-person inspection of their original identity and employment authorization documents.

Additionally, any employers served with notices of inspection by DHS during March 2020 and have not already responded will be granted an automatic 60-day extension from the effective date to provide a response. Further extensions may be granted after the expiration of 60 days, within DHS’ discretion.

For further information, please click this link:

<https://www.ice.gov/news/releases/dhs-announces-flexibility-requirements-related-form-i-9-compliance#wcm-survey-target-id>.

This is Pettit Kohn Ingrassia Lutz & Dolin PC’s monthly employment update publication. If you would like more information regarding our firm, please contact Tom Ingrassia, Jennifer Lutz, Ryan Nell, Shannon Finley, Jennifer Suberlak, Blake Woodhall, Carol Shieh, Shelby Harris, Brittney Slack, or Rio Schwarting at (858) 755-8500; or Grant Waterkotte, Tristan Mullis, Andrew Chung, Jennifer Weidinger, Rachel Albert, or Mihret Getabicha at (310) 649-5772.

We are dedicated to providing the highest quality legal services and obtaining superior results in partnership with those who entrust us with their needs for counsel.

We enjoy a dynamic and empowering work environment that promotes teamwork, respect, growth, diversity, and a high quality of life.

We act with unparalleled integrity and professionalism at all times to earn the respect and confidence of all with whom we deal.