



Newsletter

OCTOBER 2006

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Our office will be closed for the following holidays:
September 26th, 2006 through October 6th, 2006 –
Vacation

November 23rd & 24th, 2006 – Thanksgiving Day

December 25th, 2006 – Christmas Day

Our next newsletter will be mailed out the beginning of
January 2007.

Remember if you have an article that you would like to
contribute to our newsletter just fax it to us for our
review. We must receive the article no later than
December 15th for our January newsletter.

OFFICE CLOSED SEPTEMBER 26th through October 6th, 2006

Please note that our office will be closed for
vacation. No telephone messages or emails will be
checked at that time. If you choose to leave a
telephone message or send an email please be aware
that your email or telephone message will not be
responded to until the reopening of our office on
October 9th, 2006.



What Employers Need to Know - Employment Eligibility Verification

The immigration Reform and Control Act requires all
U.S. employers to verify the employment eligibility and
identity of all employees hired to work in the United
States. Pursuant to the Act, employers are required to
complete Employment Eligibility Verification forms
(Form I-9) for all employees. Below I highlight common
questions and answers from information of U.S.
Citizenship and Immigration Services.

Do citizens and nationals of the U. S. need to prove, to
their employers, they are eligible to work? Yes. U.S.
citizens and nationals are automatically eligible for
employment. However, they too must present proof of
employment eligibility and identify and complete a

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Form I-9. Citizens of the U.S. include persons born in Puerto Rico, Guam, the U.S. Virgin Islands and the Northern Mariana Islands. Nationals of the U.S. include persons born in American Samoa, including Swains Island.

Do I need to complete a Form I-9 for everyone who applies for a job with my company? No. You need to complete Form I-9 only for people you actually hire. For purposes of the I-9 rules, a person is “hired” when he or she begins to work for you for wages or other compensation. Form I-9 need not be completed for those individuals providing services for the employer as an independent contractor.

I understand that I must complete a Form I-9 for anyone I hire to perform labor or services in return for wages or other remuneration. What is “remuneration”? Remuneration is anything of value given in exchange for labor or services rendered by an employee, including food and lodging.

When should I obtain the information from the employee? A new employee must complete Section 1 of a Form I-9 no later than close of business on his/her first day of work. The employee’s signature holds him/her responsible for the accuracy of the information provided. The employer is responsible for ensuring that the employee completes Section 1 in full. No documentation from the employee is required to substantiate Section 1 information provided by the employee.

What about the remaining sections of Form I-9? The employer is also responsible ensuring completion of the entire form. No later than close of business on the employee’s third day of employment services, the employer must complete section 2 of the Form I-9. The employer must review documentation presented by the employee and record document information of the form. Proper documentation establishes both that the employee is authorized to work in the U.S. and that the employee who presents the employment authorization document is the person to whom it was issued.

Can I fire an employee who fails to produce the required document(s)? Yes. You can terminate an employee who fails to produce the required document(s), or a receipt for a replacement document(s) (in the case of lost, stolen or destroyed document(s), within three (3) business days of the date employment begins. However, you must apply these practices uniformly to all employees. If an employee has presented a receipt for a replacement document(s), he or she must produce the actual document(s) within 90 days of the date employment begins.

What happens if I properly complete a Form I-9 and the government discovers that my employee is not

actually authorized to work? You cannot be charged with a verification violation; however, you cannot knowingly continue to employ this individual. You will have a good faith defense against the imposition of employer sanctions penalties for knowingly hiring an unauthorized alien unless the government can prove you had actual knowledge of the unauthorized status of the employee.

May I accept a photocopy of a document presented by an employee? No. Employees must present original documents. The only exception is an employee may present a certified copy of a birth certificate.

What is my responsibility concerning the authenticity of document(s) presented to me? You must examine the document(s) and, if they reasonably appear on their face to be genuine and to relate to the person presenting them, you must accept them. To do otherwise could be an unfair immigration-related employment practice.

What should I do with the completed I-9? I-9 forms are not filed with the U.S. government. I-9s should be retained throughout the period of employment. The requirement is for employers to maintain I-9 records in its own files for 3 years after the date of hire or 1 year after the date the employee’s employment is terminated, whichever is later. As a practical matter, however, Form I-9 records should be stored at the worksite to which they relate or at a company headquarters for easy access.

What if after employment, the employee is determined he/she is not authorized to work? It occasionally happens that an employer learns that an employee whose documentation appeared to be in order for Form I-9 purposes is not actually authorized to work. In such case, the employer should question the employee and provide another opportunity for review of proper Form I-9 documentation. If the employee is unable under such circumstances to provide satisfactory documentation, employment should be discontinued (alien employees who question the employer’s determination may be referred to an Immigration field office for assistance).

I discovered false documentation – what should I do? It occasionally happens that an employee who initially presented false documentation to gain employment subsequently obtains proper work authorization and presents documentation of this work authorization. In such a case, the law does not require the employer to terminate the employee’s services. However, an employer’s personnel policies regarding provision of false information to the employer may apply. The employer should correct the relevant information on the Form I-9.

I acquired a business – do I need a new I-9? In a

case where a new owner of a business is a successor in interest, having acquired an existing business, the new employer may keep the acquired employer's I-9 records rather than complete new Forms I-9 on employees who were also employees of the acquired employer. However, since the new employer would be responsible for any errors, omissions or deficiencies in the acquired records, it may choose to protect itself by having a new Form I-9 completed for each acquired non-exempt employee and attached to that employee's original Form I-9.

For more information contact Cristina Perez at cristina@california-lawfirm.com or (818)550-8300. For over a decade Cristina has provided effective professional counsel in areas of Immigration and Nationality law where her practice primarily focuses in assisting foreign professionals in the technology, business, investment, athletic and entertainment fields, in non-immigrant and immigrant visas, labor certifications, family petitions, and naturalization. Her clientele includes professional athletes, entertainers, business and corporate executives. Cristina is bilingual in Spanish. Perez Gonzalez, A Professional Law Corporation was established to meet the need for effective professional counsel in areas Immigration and Nationality Law as well as Corporate/Business and Civil Law. Perez Gonzalez bases its commitment to client service on developing an intimate knowledge of each client's needs and objectives. The firm seeks long-term, partnering relationships with clients, to the end of providing the best total solution to the client's multi-disciplined and industry-specific legal service needs. The firm's goal is to be an instrumental part of each client's success.

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MOST FREQUENTLY ASKED TRADEMARK QUESTIONS

Goods and/or Services

You must list the specific goods/services for which registration is sought, *regardless* of the basis for the application. If based on use in commerce, you must already be using the mark in commerce on or in connection with *all* the goods and/or services listed. When specifying the goods and/or services, use clear, concise terms, *i.e.*, common commercial names and language that the general public easily understands.

What is "use in commerce"?

For the purpose of obtaining federal registration, "commerce" means all commerce that the U.S. Congress may lawfully regulate; for example, interstate commerce or commerce between the U.S. and another country. "Use in commerce" must be a bona fide use of the mark in the ordinary course of trade, and not use simply made to reserve rights in the mark. Generally, acceptable use is as follows:

For goods: the mark must appear on the goods, the container for the goods, or displays associated with the goods, and the goods must be sold or transported in commerce.

For services: the mark must be used or displayed in the sale or advertising of the services, and the services must be rendered in commerce.

What is a "specimen" of use?

A specimen is ***an actual example*** of how you are using the mark in commerce on or in connection with the identified goods and/or services. This is not the same as the drawing of the mark, which merely represents what you are claiming as the mark.

What is a proper specimen for use of a mark on goods (products)?

Normally, a specimen for a mark used on goods shows the mark on the actual goods or packaging for the goods. You may submit a tag or label for the goods; a container for the goods; a display associated with the goods; or a photograph of the goods that shows use of the mark on the goods. Do **not** submit the actual product.

Invoices, announcements, order forms, bills of lading, leaflets, brochures, publicity releases, letterhead and business cards generally are NOT acceptable specimens for goods.

What is a proper specimen for use of a mark with services?

A specimen for a mark used in connection with services must show the mark used in the sale or advertising for the services. You may submit a sign; a brochure about the services; an advertisement for the services; a business card or stationery showing the mark in connection with the services; or a photograph showing the mark as used in rendering or advertising the services. There must be some reference to the type of services rendered on the specimen, *i.e.*, not just a display of the mark itself. For example, if the mark sought to be registered is "XYZ," a business card that only shows the mark "XYZ" would not be acceptable. A business card that states "XYZ REAL ESTATE" would be acceptable.

How Decisions are Made

The Romans dealt with decision making by worshipping Fortuna, goddess of randomness. The Persians had another approach, which Herodotus recorded around 430 B.C. If an important decision is to be made, they discuss the question when they are drunk. The following day, the master of the house submits their decision for reconsideration when they are sober. If they still approve

of it, it is adopted; if not, it is abandoned. Conversely, any decision they make when they are sober is reconsidered afterwards, when they are drunk.

Now a question for you: Are *you* serious about decisions? Start with the Latin *decidere*. It means, literally, “to cut off.” Decisions force us to foreclose other opportunities – jobs not taken, strategies never tempted, options unpursued.

Most of us will do just about anything to avoid uncertainty. We might defer decisions endlessly (thus surrendering what power we do have to control our own destinies) or, like ripping off a Band-Aid, pull the trigger all at once. Making a call takes guts. It means inviting uncertainty into your home, offering it a drink, and asking it to stay for dinner. Uncertainty is a creepy houseguest, but not your captor.

If surmounting your anxieties is step one, step two is letting go of your inner perfectionist because there is no such thing as a perfect decision-maker. Even if you had all the information in the world and a hangar full of supercomputers, you'd still get some wrong.

But there's a big difference between a wrong decision and a bad decision. A wrong decision is picking Door No. 1 when the prize is actually behind Door No. 2. It's a lousy result, but the fault lies with the method. A bad decision is launching the space shuttle *Challenger* when Morton Thiokol's engineers predict a nearly 100% chance of catastrophe. The method, in this case, is no method at all.

Here are a few methods used in making decisions:

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THE 70% SOLUTION: If you have 70% of the information, you have 70% of the analysis, you feel 70% confident, then move.

BURN THE BOAT: Be ready to revise any system, scrap any methods, abandon any theory if the success of the job demands it.

VOICE QUESTIONS, NO OPINIONS: If you are looking for answers, ask the question. If you are looking for an honest critique, you ought to be the first person to self-critique.

LOOKING AT THE CLOCK: A panicked mind stops processing new information, reverts to tried-and-true responses, and is prone to snap decisions that make things worse.

LET THE BATTLE RAGE: A furious volley of fact is met with a fierce counter-attack of analysis – and the battlefield is littered with useful information.

CLONE YOUR OPPONENT: Cloning translates easily to other competitive situations.

GO WITH THE OMEN: When our rational brains tie us in knots, our natural preferences sometimes express themselves in nonrational ways.

EDUCATE YOUR INSTINCTS: Blind instinct cannot be trusted – but it can be educated. Your mind touches on resources it's not even conscious of touching on.

WHAT WOULD SARA LEE DO?: Imagine, for a moment, that the company is a person. If Sara Lee were an actual woman, what decisions would she make for herself?

The worst error you can make is no decision at all.

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