



## E-Verify Cracks Down on Identity Theft

One of the issues employers have had with E-Verify is that the process was not designed to detect identity theft. This created a possibility that an employer could receive a "confirmation" from USCIS on two different employees who used the same social security number. USCIS is now trying to address this issue with E-Verify. Using a combination of algorithms, detection reports, and analysis, Social Security Numbers ("SSN") that appear to have been misused or used fraudulently in the past will now be locked in the system. Thus, if an employee presents the name, identification, and SSN of another person (a stolen identity), there is an increased chance of being caught by USCIS. At the very least, it may function to deter employees from presenting false documentation. If the SSN has been flagged or locked, E-Verify will issue a tentative non-confirmation ("TNC"). The employee, of course, can and, in some instances, should still contest this and attempt to resolve the TNC with the Social Security Administration Office. After all, that employee could have been the victim of identity theft. The enhancement is not foolproof, but it is a step in the right direction. E-Verify will not catch current employees who previously presented fraudulent SSN's (generally, only new hires are run through the system), and not all "stolen" or "borrowed" SSN's will be locked in E-Verify. Keep in mind, this feature does not relieve the employer of its obligation to carefully review the documents presented (including but not limited to the photograph) and to follow up on information that casts doubt on an employee's identity or work authorization. Additionally, employers still have the obligation to conduct investigations of any reports of false documents being used.

— [Laurie M. Chess](#) and [Mary Ellen B. Jordan](#)

*Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:*

**Laurie M. Chess**  
Partner, Jones Walker LLP  
Miami Center, Suite 2600  
201 S Biscayne Blvd  
Miami, FL 33131-4341  
305.679.5728 tel  
[lchess@joneswalker.com](mailto:lchess@joneswalker.com)

**Mary Ellen B. Jordan**  
Special Counsel, Jones Walker LLP  
201 St. Charles Ave  
New Orleans, LA 70170-5100  
504.582.8706 tel  
[mjordan@joneswalker.com](mailto:mjordan@joneswalker.com)

**[Jones Walker Labor & Employment Practice Group](#)**  
**[www.joneswalker.com](http://www.joneswalker.com)**

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