



## THE ‘NOI’SE IS GETTING LOUDER

In our [December 2009 Labor & Employment E\\*Bulletin](#), we reported that U.S. Immigration and Customs Enforcement (“ICE”) was sending out Notices of Inspections (“NOIs”) to 1,000 employers in which ICE was compelling production of hiring and payroll records as part of its attempt to uncover and prosecute employers who fail to ensure their workforce is legal. If you did not receive a NOI in 2009, consider yourself lucky. But your fortune may not last long. On March 2, 2010, ICE announced it is issuing 180 NOIs to business owners in Louisiana, Mississippi, Alabama, Arkansas, and Tennessee.

NOIs require employers to provide copies of all their employee Form I-9s and supporting documentation (if the employer normally keeps copies of such documents) by a certain timeframe. In most cases, the employer only has three days in which to produce its records. In addition to asking for copies of the Form I-9s, ICE may also require employers to produce, among other things: (1) a list of all current employees with their dates of hire; (2) a list of all terminated employees with hire and termination dates; (3) copies of payroll data and/or quarterly wage and hour reports; (4) assigned account numbers if the company is a current or previous participant in E-Verify or the Social Security Number Verification Service; (5) business information to include Employer Identification Number or Taxpayer Identification Number; and (6) copies of correspondence from the Social Security Administration to the employer regarding mismatched or no-matched social security numbers.

You should take these NOIs seriously because inspections may result in civil penalties and potential criminal prosecution of employers who allegedly knowingly violate the law. Within the past few months, ICE has imposed fines in excess of \$2.5 million in connection with the I-9 inspections. If served with an NOI, employers should immediately contact immigration counsel to discuss the strategy for responding to the notice. If you have not yet been served with an NOI, and have not conducted an I-9 audit in the past six months, now is the time to do so.

—[Laurie M. Chess](#)



*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*

Courvoisier Centre II

601 Brickell Key Drive, Suite 500

Miami, FL 33131

305.679.5728 *tel*

305.679.5710 *fax*

[lchess@joneswalker.com](mailto:lchess@joneswalker.com)

## Labor & Employment Practice Group

H. Mark Adams

Jennifer L. Anderson

Timothy P. Brechtel

Gregory Brumfield, Jr.

Susan K. Chambers

Laurie M. Chess

Amy C. Cowley

Anita B. Curran

Jennifer L. Englander

Virginia W. Gundlach

Jane H. Heidingsfelder

Cornelius R. Heusel

Thomas P. Hubert

R. Scott Jenkins

Mary Ellen Jordan

Mark E. Kaufman

Tracy E. Kern

Jennifer F. Kogos

Celeste C. Laborde

Joseph F. Lavigne

Sidney F. Lewis, V

Joseph J. Lowenthal, Jr.

Christopher S. Mann

James Rebarchak

Olivia S. Regard

Kirkland E. Reid

Stephen D. Ridley

Victoria J. Sisson

Mary M. Spell

David K. Theard

Patrick J. Veters

Robert B. Worley, Jr.

*This newsletter should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own attorney concerning your own situation and any specific legal questions you may have.*

To subscribe to other E\*Bulletins, visit <http://www.joneswalker.com/ecomunications.html>.