



U.S. Department of Justice
Civil Rights Division

*Special Counsel for Immigration Related
Unfair Employment Practices - NYA
950 Pennsylvania Avenue, NW
Washington, DC 20530*

MAR 06 2009

VIA E-MAIL (karin@kwvisalaw.com)

Karin Wolman, Esq.
Law Office of Karin Wolman, PLLC
48 Wall Street, 11th Floor
New York, NY 10005

Dear Ms. Wolman:

I am writing in response to your e-mail of January 9, 2009, inquiring about the interim final rule published at 73 *Fed. Reg.* 76505 (Dec. 17, 2008), which modifies the lists of documents acceptable for employment eligibility verification purposes.

As you are aware, the Department of Homeland Security's (DHS's) U.S. Citizenship and Immigration Services (USCIS) oversees the employment eligibility verification (Form I-9) process. See attached web page entitled *About Form I-9 and E-Verify*. The USCIS's web site may be accessed at www.uscis.gov/portal/site/uscis/menuitem. In addition, you may contact the Verification Division of USCIS at (888) 464-4218 for further information on rules pertaining to the Form I-9.

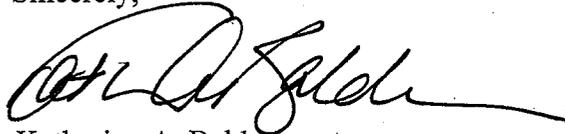
DHS has delayed implementation of the interim final rule until April 3, 2009, so that it may further consider the rule and receive additional public comments. See attached *January 30, 2009 USCIS Update*. In view of this development, it would be inappropriate for OSC to respond to your questions about the interim final rule at this time. Until further notice from DHS, employers should continue to use the current Form I-9, which has an expiration date of 06/30/09.

As you know, the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) investigates and prosecutes charges of national origin and citizenship status discrimination, as well as over-documentation in the employment eligibility verification process (commonly called "document abuse") and retaliation under the anti-discrimination provision of the Immigration and Nationality Act (INA), 8 U.S.C. § 1324b.

Unlawful document abuse occurs under 8 U.S.C. § 1324b(a)(6) when: (1) in order to satisfy the employment eligibility verification provisions of 8 U.S.C. § 1324a(b); (2) the employer either: (a) requested more or different documents than are required for employment eligibility verification purposes, or (b) rejected documents that on their face reasonably appear genuine, relate to the person and establish employment eligibility; and (3) the employer acted for the purpose or with the intent of discriminating on the basis of national origin or citizenship status. Discriminatory intent may be inferred from employers' differences in treatment of citizenship status or national origin groups. Thus, an employer commits document abuse when it either rejects a genuine document that establishes employment eligibility or requires more or different documents than necessary to establish employment eligibility, and does so with the requisite discriminatory intent.

We would be happy to provide you with further information concerning the anti-discrimination provision at any time. As you are aware, OSC operates a toll-free hotline for employers that may be reached at (800) 255-8155.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katherine A. Baldwin', written in a cursive style.

Katherine A. Baldwin
Deputy Special Counsel