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FEDERAL BAR ASSOCIATION,  
Chicago Chapter



# What You Should Know About **WORKPLACE ENFORCEMENT** and **IMMIGRATION**

LOYOLA UNIVERSITY  
SCHOOL OF LAW  
RUBLOFF AUDITORIUM  
25 E. PEARSON  
MONDAY, NOVEMBER 17, 2008

8:30 A.M. TO 5:30 P.M.

**A**s many as 20 million people live and work in the US illegally. As the immigration debate rages, the focus is on the so-called “illegals,” but US employers are supplying the jobs. Since 1986, when Congress passed the Immigration Control and Reform Act (IRCA) it has been illegal to knowingly employ unauthorized workers. Immigration and Customs Enforcement (ICE), part of the Department of Homeland Security (DHS), is now the agency responsible for ensuring that employers comply with the law, and it has issued priorities and regulations in workplace enforcement. DHS and ICE are working closely with the Social Security Administration and the Department of Justice, prosecuting workers for document fraud, Social Security fraud and identify theft. This program will focus on US employers and their role in the immigration issue as well as the implications for unauthorized workers. It will examine pitfalls that await an employer who tries to comply with the law and will discuss the penalties that can be assessed against an employer who discriminates against workers because they appear foreign. It will also look at the use of subcontractors to avoid the reach of the law. The program will examine the civil and criminal tools that are being used against employers and unauthorized workers and will investigate recent cases and trends.

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# What You Should Know About WORKPLACE ENFORCEMENT and IMMIGRATION

## PROGRAM

### WORKPLACE ENFORCEMENT AND IMMIGRATION

Program Chair

**Margaret H. McCormick**

*Minsky, McCormick & Hallagan, P.C.*

*FBA Chicago Chapter Board of Directors*

#### 8:30 Welcome

**Paul Freehling**

*President, Federal Bar Association,  
Chicago Chapter*

#### 8:40 Employment Verification from IRCA to ICE: An Overview

- Overview of Employer Verification requirements of IRCA.
- Enforcement Priorities Under ICE
- Traditional Compliance Issues
- E-Verify and Government Contracts

**Scott D. Pollock**—

*Scott D. Pollock & Associate., Chicago*

**Patricia Luna**—

*Minsky, McCormick & Hallagan, Chicago*

#### 9:30 IRCA Anti-Discrimination Provisions

- Immigration-related Employment Discrimination Provisions
  - Prohibitions under IRCA, Employers affected
  - Balancing I-9 Compliance and Discrimination Prohibitions
  - What questions to ask and what you should not ask
  - Year in review

**Martina Keller**— *Kempster, Keller & Lenz-Calvo, Chicago*

**Robin Stutman**— *Office of Special Counsel for Immigration -related unfair Employment Practices, DOJ, Washington D.C.*

#### 10:20 Break

#### 10:30 ICE Initiatives: What Employers Should Know About the Current Landscape

- Review of 2008 ICE Enforcement Record in the Workplace
- Priorities and Targeted Industries

- Strategies for Compliance
  - No-Match Regulation and its Implications for Employers
    - Knowledge
    - Determining whether to terminate
- Self-diagnosis and Cure
  - Conducting a Self Audit
    - Correction of I-9s
    - Review of typical mistakes and proposed solutions
- Special Rules for subcontractors
- Mergers & Acquisitions Due Diligence: Evaluating Employment Verification Processes

**Marketa Lindt**— *Sidley, Austin, Chicago*

**Robert C. Divine**— *Baker, Donelson, Chattanooga*

**Martha Schoonover**— *Greenberg Traurig, Washington D.C.*

#### 12:00 Lunch Break: Box Lunch Provided

#### 12:30 Keynote Address: Immigration Enforcement and the Social Security Administration

**Patrick P. O'Carroll, Jr.**— *Inspector General, Social Security Administration, Washington D.C.*

#### 1:15 Future of Workplace Immigration Compliance: Verification and Storage

- Verifying Identity and Employment Authorization with Confidence
  - The Risks and Rewards of Using Verification Systems
  - Arizona Employer Sanctions and E-verification Laws Upheld
  - Conflicts between States
- Secure Drivers Licenses and other REAL ID Issues
- Paperless I-9 storage

**Dan Siciliano**— *Executive Director and Lecturer in Law, Stanford Law School, Program in Law, Economics & Business, Palo Alto*

**Michelle P. Jacobson**— *Vedder, Price, P.C., Chicago*

#### 2:00 Prosecution and Defense Issues in a Raid: Employers and Unauthorized Workers

- Typical Charges against Employers and Employees
- Potential Criminal Liability from SSA No-Match, Knowing Hire and I-9 Perjury

# What You Should Know About WORKPLACE ENFORCEMENT and IMMIGRATION

- Smuggling, Transporting, Harboring Charges
- Personal liability of Managers and Executives
- Use of RICO to Prosecute Employer Immigration Violations
- Aggravated Identity Theft and Document Fraud
- Judicial Removal Orders
- Immigration Relief Consequences

**Jay Jorgensen**— *Sidley, Austin, Washington D.C.*

**Dan Murray**— *Johnson & Bell, Chicago*

**Carlina Tapia-Ruano**— *Tapia-Ruano & Gunn, Chicago*

- Interpreters Dilemma in Criminal Prosecutions
- Supervisor liability
- What the Prosecutions Portend

**David Wolfe Leopold**— *Leopold & Associates, Cleveland*

**Jane Kelly**— *Iowa Federal Public Defenders*

**Eric Camayd-Freixas, Ph.D.**— *Florida International University, Miami*

**Thomas K. McQueen**— *Thomas K. McQueen, Chicago*

3:20 **Break**

3:30 **The Postville, Iowa Prosecutions**

- Agriprocessor Raid
- Defending the Postville Workers

## QUESTIONS?

**Beata Leja at 312.267.4619**

**E-mail: fbaimmigration@mmhpc.com**

**Fax: 312.427.6513**

## FBA Workplace Enforcement Seminar Registration

Name \_\_\_\_\_

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### Send/Fax Registration to:

Margaret H. McCormick, Chair  
FBA Workplace Enforcement Program  
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### Credit Card Registration, call:

Claudia Alvarez at 312.267.4604

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