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# FLORIDA
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*Vol. 25, No. 12*
*February 2014*

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*PRIVACY*

# Securing and protecting customers' confidential information

by Sean Douthard
Law Offices of Tom Harper

*The U.S. District Court for the Southern District of Florida recently allowed a customer's claims of false imprisonment, infliction of emotional distress, and breach of fiduciary duty against Wells Fargo to go forward. The interesting aspect of this case is that the bank didn't commit any of the acts that resulted in the lawsuit. It's not what Wells Fargo did; it's what the company failed to do that provided a factual basis for the court to allow the customer's claims to go forward.*

## Customer receives unwelcome surprise

Carlos Gomez received quite a surprise when authorities showed up at his house and arrested him at gunpoint in front of his wife and two daughters. That would be bad enough for any unsuspecting citizen. However, the incident was only the beginning of Gomez's troubles.

Gomez was charged with fraud and money laundering, which carry a 20-year sentence. The allegations must have been a complete surprise since he was later cleared of all charges. Unfortunately, he was held in a federal jail for nearly two weeks, lost his job, and spent almost eight months on house arrest before he was able to clear his name.

So how did this terrible mix-up happen? Gomez alleges that Wells Fargo is to blame. He filed a federal lawsuit claiming the bank failed to secure and protect customers' private and confidential information from being improperly used by its employees and others. He also claims that the bank failed to provide the federal government with accurate and complete information on him. According to Gomez, those failures ultimately resulted in his arrest.

## Less than ideal customer service

Gomez claims Wells Fargo failed to secure and protect his confidential account information from being improperly used by others, including employees. He claims that the failure resulted in two bank employees (1) stealing more than $1.1 million from two accounts, (2) opening a new account in his name by using his confidential information without his authorization or documents necessary to open an account, (3) changing the mailing address of the improperly opened account so he would not be notified of the account or transactions, and (4) laundering $135,000 with the account. The fraudulent account had an opening balance at least 270 times more than the average daily balance of any account Gomez had with Wells Fargo. Maybe that should have thrown up a red flag; Gomez thinks so.

Law Offices of Tom Harper, Stearns Weaver Miller, P.A., and Sniffen & Spellman, P.A., are members of the *Employers Counsel Network*

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## AGENCY ACTION

***OSHA taking online whistleblower complaints.*** The Occupational Safety and Health Administration (OSHA) has launched an online form allowing workers to file whistleblower complaints. Workers who feel they have been retaliated against can submit a complaint by visiting www.osha.gov/whistleblower/WBComplaint.html. The online form prompts workers to include basic whistleblower complaint information so they can be easily contacted for a follow-up. Complaints are automatically routed to the appropriate regional whistleblower investigators. The form also can be downloaded and submitted to the agency in hard copy format by fax, mail, or hand delivery. Workers also may still make complaints by filing a written complaint or by calling the agency.

***DOL announces rules aimed at updating requirements.*** The U.S. Department of Labor (DOL) in November announced four rules to update or rescind obsolete regulations and requirements. A rule from OSHA streamlines the standards for the use of mechanical power presses, while the remaining three rules from the Employment and Training Administration rescind outdated Foreign Labor Certification regulations for the H-2A, F-1, and H-1A programs, according to a statement from the DOL. The OSHA rule eliminates a requirement for employers to document mandatory weekly inspections of mechanical power presses while clarifying the responsibility to perform and document any maintenance or repairs necessary to protect the safety of workers. The three new Employment and Training Administration rules rescind obsolete regulations.

***Injury-illness report continues downward trend.*** The U.S. Bureau of Labor Statistics (BLS) reports that nearly three million nonfatal workplace injuries and illnesses were reported by private-industry employers in 2012, resulting in an incidence rate of 3.4 cases per 100 equivalent full-time workers, according to estimates from the Survey of Occupational Injuries and Illnesses. The 2012 rate continues the pattern of statistically significant declines that, with the exception of 2011, occurred annually for the last decade. Key findings from the 2012 survey show that the total recordable cases incidence rate of injury and illness among private-industry establishments declined in 2012 from a year earlier, as did the rate for other recordable cases not requiring time away from work. The rate for cases of a more serious nature involving days away from work, job transfer, or restriction was unchanged in 2012, as a decline in the rate of cases involving days away from work was offset by the rate for cases involving job transfer or restriction only, which was unchanged. ✤

Gomez also alleges that Wells Fargo deliberately failed to provide the federal government with accurate and complete information about him, which led to his arrest and incarceration. Specifically, he claims that in early 2008, Wells Fargo falsely informed the government that an account used to launder money belonged to him. He claims the bank should have known that its employees had implemented a money-laundering scheme that resulted in more than $1.1 million being removed from two customers' accounts and put into an account that was improperly opened in Gomez's name without proper documentation, internal approvals, or his authorization. The account was then used to launder $135,000 without Gomez's knowledge or involvement. Gomez alleges that the culprits were able to open the account by using a fake signature, which bank employees specifically noted did not match his.

### *Gomez holds bank accountable*

Gomez believes Wells Fargo is ultimately to blame for his troubles. He filed five claims against the bank, including one for false imprisonment. The false imprisonment claim is particularly interesting because Wells Fargo never imprisoned Gomez.

Gomez claims the federal government arrested him in front of his wife and two young daughters, removed him from his home, detained him for almost two weeks, and placed him on house arrest for almost eight months. Further, he alleges that his arrest and detention were unreasonable, unwarranted, without legal authority, and against his will. The events were certainly a pretty tragic mix-up, but it seems that the federal government, not Wells Fargo, falsely imprisoned him. However, Gomez alleges that his arrest and detention were caused or instigated by Wells Fargo's conduct.

Wells Fargo asked the court to dismiss all of Gomez's claims. However, the court sided with Gomez and ruled that all of his claims, including the false imprisonment claim, were viable and could proceed to trial. Gomez was able to convince the court that Wells Fargo's actions provided him with a legitimate claim for false imprisonment.

Because the court refused to throw out Gomez's claims, Wells Fargo must now decide whether to settle the case or pay its defense team to fight these very serious allegations. If Gomez ultimately prevails, the bank could be looking at paying significant monetary damages because it failed to take necessary action to protect its customers' private information. *Gomez v. Wells Fargo Bank,* No. 13-23420-CIV-DIMITROULEAS, 2014 U.S. Dist. LEXIS 2871 (S.D. Fla., January 7, 2014).

### *Takeaways*

Clearly, businesses should never withhold information from the federal government. In this case, it is up for debate whether Wells Fargo was aware that its employees were using customers' account information to launder money when it reported Gomez to the authorities. If it was, it may end up shelling out some serious money. Gomez certainly believes his life was turned upside down thanks to the actions of Wells Fargo's employees.

Take steps to protect sensitive customer or client information. Employee oversight is key. Train employees on the importance of protecting customers' confidential information, and make sure that employees are aware of the potential consequences that can come with a privacy breach. In the event of a breach, take all steps necessary to resolve the problem, notify customers, and minimize the damage that may have been done.

Wells Fargo is not the first company to face a lawsuit for a data breach. Major companies such as Winn-Dixie have faced similar suits. Data breaches and the lawsuits that come with them pose an ever-increasing risk to businesses of all sizes. By the way, ask your insurance agent if your company is covered for this type of problem.

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# ASK ANDY

## FMLA policy translation

by Andy Rodman
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.

**Q** *My colleague told me that our company, which has many Spanish-speaking employees, is required to post a Spanish version of our Family and Medical Leave Act (FMLA) general notice. Is this true? If so, is our company required to translate or post other notices or policies in languages other than English?*

**A** Your colleague may be correct. Under the FMLA, covered employers (generally, companies with at least 50 employees) must post a "general notice" explaining the Act's provisions and the procedure for filing complaints with the U.S. Department of Labor (DOL). The notice must be posted "prominently where it can be readily seen by employees and applicants for employment" in each location where the employer has employees. If an employer has eligible employees, then it must provide the notice to all employees (e.g., by including the notice in employee handbooks or distributing it upon hire). "Eligible employees" are employees who (1) have been employed for at least 12 months, (2) have worked at least 1,250 hours during the preceding 12 months, and (3) work at a location where 50 or more workers are employed within a 75-mile radius.

If an employer's workforce comprises "a significant portion of workers who are not literate in English, the employer shall provide the general notice in a language in which the employees are literate." "Significant portion" is not defined, but if you know you have employees who are not literate in English, it would be prudent to provide the notice in other languages.

The DOL has made English and Spanish versions of the FMLA notice available. See www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf for the English version and www.dol.gov/whd/regs/compliance/posters/fmlasp.pdf for the Spanish version. The regulation governing posting and distribution of the notice is not limited to Spanish; it covers any language spoken by a "significant portion" of your workforce.

For other laws, it is generally advisable to translate critical company policies into languages other than English. (In Florida, that often means Spanish or Creole). Distribute the translated policies at the time of hire to employees who are not fluent in English, and make them available to all current employees. "Critical policies" may include your equal employment opportunity (EEO) policy, anti-harassment and anti-discrimination policies, progressive discipline policy, and FMLA policy. "All-in-one" posters can be purchased in languages other than English.

If your policies are written in English, you may face an uphill battle when defending against a lawsuit from an employee who is not fluent in English. Will you succeed in arguing that an employee who reads and speaks primarily Spanish failed to complain about sexual harassment if your sexual harassment policy is only in English? The potential benefits of translating critical policies (or even your entire handbook) may greatly outweigh the costs.

Other federal laws and programs require postings in languages other than English. Those include the Migrant and Seasonal Agricultural Worker Protection Act, E-Verify, Executive Order 13496 requiring federal contractors and subcontractors to post notices of employee rights under the National Labor Relations Act (NLRA), and the Immigration and Nationality Act.

*If you have a question or issue that you would like Andy to address, e-mail arodman@stearnsweaver.com. Your identity will not be disclosed in any responses. This column is not intended to provide legal advice. Answers to personnel-related inquiries are highly fact-dependent and often vary state by state, so you should consult with employment law counsel before making personnel decisions.* ✤

*ALTERNATIVE DISPUTE RESOLUTION*

# How long does an employee have to arbitrate a dispute? Florida Supreme Court speaks

by Robert J. Sniffen and Jeff Slanker
Sniffen & Spellman, P.A.

*The Florida Supreme Court recently clarified the time limits that govern arbitration proceedings. The ultimate question was whether Section 95.011 of the Florida Statutes, which contains Florida's statutes of limitations, applies to arbitration proceedings. The court held that arbitration proceedings are "actions" under Florida law. Thus, the laws setting forth statutes of limitations apply.*

*The court's ruling is obviously important since more and more employers are requiring employees and customers to sign arbitration agreements to settle disputes stemming from their business or employment relationships.*

## The lawsuit

The case stemmed from the actions of a branch manager of Raymond James Financial Services in Naples. The manager invested money on behalf of clients and worked with clients who opened accounts with Raymond James. Clients were required to agree to arbitrate disputes over the investments. The arbitration agreement provided that:

- Arbitration was binding on all parties and would be final.
- The parties waived their right to seek remedies in court.
- Nothing in the agreement would waive or limit the application of any state or federal statute of limitations.
- The determination of whether a claim was timely would be made by a court with jurisdiction over the dispute.

The agreement included a choice-of-law provision indicating it was governed by Florida law.

In 2005, several investors filed an arbitration claim against Raymond James. They alleged that the branch manager invested their assets in risky ventures, which resulted in a significant loss of value from 1999 to 2005. They also contended that Raymond James failed to supervise the manager, who they claim entered into risky investments that were inconsistent with their expectations and wishes. The investors alleged violations of Chapter 517 of Florida law, which governs securities transactions.

Raymond James sought to dismiss the claim because it was filed more than *six years* after the first allegedly bad investment was made and *four years* after the last investment was made. The investors filed a lawsuit in state court seeking a judgment that the claim was timely.

The key dispute centered on whether the Florida law outlining the statute of limitations applied. The law applies to "civil actions or proceedings." Raymond James argued that "civil actions or proceedings" encompassed arbitration proceedings, but the investors took the contrary position. Both the trial court and the Florida 2nd District Court of Appeals (DCA) ruled in favor of the investors. The 2nd DCA then certified for review by the Florida Supreme Court the question of whether the statute of limitations applied. The supreme court rephrased the question to whether the statute of limitations applies to arbitration proceedings generally.

## Supreme court's decision

The supreme court analyzed Florida's statute of limitations provisions to determine whether they applied to arbitration proceedings. The court concluded that arbitration proceedings are covered by Section 95.011. The court reached its conclusion after reviewing the law in accordance with the rules of integrating statutes. The rules are essentially guideposts that courts use to determine the meaning of laws and their applicability in different circumstances. In this case, the supreme court used the rules to determine whether the provisions concerning the statute of limitations for various claims applied to arbitration proceedings.

The court noted that its job in construing laws is to give effect to the legislature's intent in enacting them. The court began by analyzing the law's plain language and looking at the language underlying the investors' claims. The provisions of the law indicate that the statute of limitations applies to "actions." Section 95.011 defines "action" as a "civil action or proceeding." So if an arbitration proceeding is an "action or proceeding," the statute of limitations applies. If not, then the statute of limitations does not apply. The investors argued that the law applied only to claims instituted in court, not arbitration proceedings.

The court analyzed the plain meaning and definitions of those terms and held that arbitration is an "action or proceeding" and is therefore covered by the statute of limitations. The court also held that the legislature's use of the term "civil action or proceeding" extended the law's scope to more than judicial claims, which are encompassed by "civil action." The court explained that "proceedings" encompasses arbitration.

In addition to analyzing the language of the law, the court used other methods to divine the legislature's intent. The court looked at the language of other laws that are related to the statute of limitations provisions and determined that a different interpretation would result in conflicts. The court also examined statutes related to

arbitration and explained that the statutes provided that arbitration is a type of proceeding. That meant the legislature acknowledged that "proceedings" include not only lawsuits but also arbitration proceedings.

Next, the court reviewed the legislative history of laws related to the statute of limitations. The history, the court explained, made clear that amendments to broaden the scope of which claims the statute of limitations would apply to meant the legislature intended to expand the types and nature of claims encompassed in the provisions.

Finally, the court analyzed the purpose of the statute of limitations. The court noted that a uniform statute of limitations prevents defendants from having to defend old claims because individuals waited to exercise their rights. In many cases, key records or personnel are no longer around to aid in defending against claims. The court noted that those concerns also apply to arbitration proceedings. If the statute of limitations did not apply to arbitration proceedings, employees or customers would be encouraged to delay proceedings to drive up costs and uncertainty in defending against them. *Raymond James Financial Services, Inc. v. Barbara J. Phillips et. al.*, No. SC11-2513, 2013 Fla. LEXIS 2493 (2013).

### *Lessons for employers*

As more employers begin requiring employees and customers to enter into binding arbitration agreements, the issue of which statute of limitations applies to arbitration claims will become more important. The supreme court's decision provides clarity on how laws that apply to arbitration proceedings will be interpreted. The court's decision will help employers determine whether arbitration proceedings are time-barred and allow employers to avoid old claims that may be costly and complicated to defend.

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*WORKPLACE ISSUES*

## Kick off new year in compliance with this 10-step checklist

*With the hubbub of the holidays past, many of us can now turn to the new year with hopes of breaking bad habits, cleaning out old baggage, and maybe even shedding some excess weight that mysteriously piled on during the commotion of the holidays. Oh, of course, personal New Year's resolutions are great, too, but we're talking about workplace resolutions—breaking bad documentation habits, cleaning up that aging employee handbook, and shedding those expired workplace posters and out-of-date policies.*

*In the spirit of new, fresh beginnings, the new year is a great time to start new habits, conduct a workplace compliance audit, and evaluate the needs of your staff and your workplace in light of recently effective changes to your state laws. In this article, we'll cover 10 key areas to review as you celebrate the new year.*

### *Check what's changing around you*

**1. Review minimum wage and tip-related compensation policies.** Let's start with an easy review. Many state minimum wage increases took effect December 31, 2013, or January 1, 2014. If you haven't done so already, be sure to review your state's minimum wage and tip-credit laws for compliance.

**2. Check workplace posters.** If your minimum wage rate increased, then it's likely you need a new wage poster to reflect the recent change. However, even if your wage rate didn't increase, you may need to replace mandatory workplace posters based on other recent substantive state-law changes. For example, employers in New Jersey have new poster requirements under a state law granting leave to domestic violence victims.

**3. Check policies related to same-sex spouses.** 2013 was a year of significant change for same-sex couples. Not only did the *U.S. v. Windsor* decision strike down the Defense of Marriage Act (DOMA) provision that restricted the definition of marriage (and the application of nearly 1,000 federal laws depending on that definition) to opposite-sex couples, but numerous states legalized same-sex marriage as well. You may have policies—particularly those providing leave under the Family and Medical Leave Act (FMLA)—that are affected by these changes. Now is a great time to review.

**4. Check your strategy for future "play or pay" responsibility.** The ongoing implementation of the Affordable Care Act (ACA) has been plagued with bumps and delays. Due in part to these technical and administrative

## WORKPLACE TRENDS

***Schedule flexibility found to be most important nonfinancial benefit.*** A poll from Monster.com has found that work schedule flexibility is the most desirable nonfinancial benefit sought by jobseekers. The next most popular benefit is personal time off/vacation carryover. Sixty-nine percent of respondents chose flexible work schedule/work-life balance, and 17% chose personal time off/vacation carryover. Less attractive options include childcare availability (4%), education reimbursement (8%), and employee parties/social activities (2%).

***List shows hot jobs for 2014.*** CareerBuilder and Economic Modeling Specialists Intl. have released a list of hot jobs that are not only growing but pay well, too. The list was based on occupations that grew 7% or more from 2010 to 2013, are projected to increase in 2014, and fall within a higher wage category of $22 per hour or more. Here are the top 12: software developers, applications and systems software; market research analysts and marketing specialists; training and development specialists; financial analysts; physical therapists; Web developers; logisticians; database administrators; meeting, convention, and event planners; interpreters and translators; petroleum engineers; and information security analysts.

***Study finds outplacement helps bottom line.*** A survey from career management firm Right Management says that companies that offer outplacement services to employees affected by restructuring are more likely to experience increases in productivity, profitability, stock price, morale, and satisfaction. They also report lower levels of employee turnover and sick days compared to companies that don't offer career transition services. Of the organizations surveyed across 10 countries, 85% that offered outplacement indicated it was very/extremely important to maintain positive relations between current and departing employees. The study identified that outplacement is most frequently offered during a restructuring (68%), merger or acquisition (53%), or leadership change (43%).

***Think you've heard 'em all?*** A national survey found that over the last year, 32% of workers have called in sick when not really sick, according to a report from CareerBuilder. Some of the excuses turned out to be real doozies. Here are some of the reasons employees cited for calling in sick: An employee got lost and ended up in another state, an employee claimed a swarm of bees surrounded his vehicle and he couldn't make it to work, an employee's fake eye was falling out of its socket, an employee bit her tongue and couldn't talk, and an employee's false teeth flew out the window while the employee was driving down the highway. ✤

difficulties, implementation of the ACA provisions that would have required certain employers to make shared responsibility payments to the IRS (commonly known as the "play or pay" provisions) has been delayed until 2015. This has given many employers some additional time to consider their benefits options, but those considerations must now be made in 2014. If you still need to decide whether you will "play or pay," start the new year with a plan to do so.

**5. Review and update antidiscrimination and antiretaliation policies.** State laws prohibiting employer retaliation and discrimination are constantly expanding the rights of employees, whether for the use of medically prescribed marijuana, immigration status, domestic violence victim status, pregnancy, or other protected classes and activities. Be sure your employee handbook, policies, and practices don't contradict or interfere with employee rights under state or federal law.

## *Check how your workplace is changing*

**6. Check compliance based on the size of your workforce.** Many state and federal laws apply only to employers with a certain minimum number of employees. If your workplace has grown (or shrunk) in the past year, you may have different leave, notice, and antidiscrimination obligations in 2014.

**7. Review job descriptions and exempt/nonexempt classifications.** If your workforce has changed in size, it may have also changed in structure. Some workers may have picked up new tasks and responsibilities, particularly in the closing months of 2013. Work with managers and supervisors to review the job descriptions and, if necessary, the Fair Labor Standards Act (FLSA) classification of employees whose roles changed significantly in the previous year.

**Be sure your employee handbook, policies, and practices don't contradict or interfere with employee rights.**

**8. Analyze employee turnover, absenteeism, and other metrics.** Turnover and absenteeism are expensive, and the new year is a great time to kick off new retention initiatives and related workplace policies. Before you can invest time, money, and other resources in your workforce, you'll need to review your current metrics because hard numbers will be more compelling to the executives than gut feelings.

**9. Review your documentation and record-keeping practices.** A new year doesn't mean it's time to embark on a housekeeping spree of shredding boxes of old I-9s (which you should be retaining for three years after the date of hire or one year after termination, whichever is later). However, if your company is growing or your current record-keeping system would leave you scrambling in the event of an agency audit, it may be time to consider taking documentation digital or expanding to an existing HR information system.

**10. Train, train, train.** Educate managers, supervisors, and executives about new state and federal laws and cases that apply

to your workplace. Also, make sure they're aware of any new revisions to company policies and procedures. And don't forget to block out some time and resources to train yourself, too. ✤

*IMMIGRATION*

# The year in review: where immigration stands at the close of 2013

*2013 was supposed to be the year that federal immigration reform would finally occur. Unfortunately, despite plenty of debate and activity on the topic, the year drew to a close with neither comprehensive nor piecemeal federal legislative solutions. Let's take a look at what did happen in the last year.*

## Federal legislative activity

In June, the U.S. Senate passed a comprehensive immigration reform bill—the Border Security, Economic Opportunity and Immigration Modernization Act of 2013. The bill proposed a major overhaul to the current immigration system and addressed concerns such as enforcement, border security, and a path to citizenship for the 11 million undocumented workers currently in the country.

The bill would require all employers to use the federal E-Verify system in addition to the already mandatory completion of Form I-9 for verification of new hires. Employers that are found hiring or employing unauthorized workers would face increased penalties, but safe harbors would be available for employers properly using the E-Verify system. The bill would also increase the availability of visas by creating new visa categories for both agricultural workers and positions requiring less than a bachelor's degree as well as raising the annual cap for the number of available H-1B visas for highly skilled workers.

The Senate measure wasn't considered by the House of Representatives, chiefly because of differences in opinion on the bill's treatment of border security and the path to citizenship. Instead, House Democrats released a separate, comparable measure. Federal budget debates and the related government shutdown stalled further discussion on either comprehensive bill. Then, House Republicans returned with a piecemeal approach that would split the comprehensive bills into several issue-specific resolutions.

We will likely see both the comprehensive and piecemeal approaches resurface in 2014. However, whether immigration reform makes any progress in the 2014 session will depend on many factors, including attitudes and tensions during the next debate over the federal debt limit, distraction by midterm congressional elections, and pressure from constituents and advocacy groups.

## Federal court activity

You may recall that a 2012 U.S. Supreme Court opinion overturned several provisions of a comprehensive Arizona immigration reform law. In a common theme, yet another Arizona immigration provision was challenged and struck down by the Court in 2013. The state law, which required proof of citizenship from persons registering to vote, ran afoul of the federal National Voter Registration Act (also known as the Motor Voter Act). Meanwhile, Alabama's own strict comprehensive state immigration law was gutted by a separate series of legal actions, injunctions, and settlements.

However, both states' mandatory E-Verify requirements stand, as do other states' laws related to the use of E-Verify. Also surviving most court contests are state laws that call for the revocation or suspension of business licenses as punishment for hiring or employing undocumented workers.

As the delay for federal immigration reform continues, state legislators will continue to test the waters and the limits of federal preemption of state provisions related to immigration and verification of citizenship.

Finally, the *U.S. v. Windsor* opinion, which expanded the federal definition of marriage to include same-gender spouses, also extended relevant federal immigration provisions to same-sex spouses.

## Federal agency activity

Despite delays in adopting federal immigration legislation, federal immigration agencies remained active in 2013. Immigration and Customs Enforcement (ICE) continued to crack down on the hiring and employment of undocumented workers with a series of silent raids

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3-11 Recruiting in the Age of Social Media: How to Stay Innovative and Legally Compliant When Sourcing and Screening Applicants ✤

and documentation audits. In 2013, as many as 1,000 employers were notified of a pending inspection at one time.

Fortunately for employers, enforcement wasn't the only agency activity in the past year. In response to user feedback, U.S. Citizenship and Immigration Services (USCIS) has implemented a number of technical and informational enhancements to simplify the process of using and learning about E-Verify. A mobile app, a newly updated and expanded website, revised posters, and a new fact sheet to assist employees with correcting immigration records are among the improvements.

Further, a new "Social Security number (SSN) lock" program has been created through which SSNs that appear to have been fraudulently used will be flagged, preventing further potential misuse and improving the accuracy and dependability of E-Verify confirmations. If an employee attempts to use a locked SSN, he will receive a Tentative Nonconfirmation (TNC), which he will need to contest at a local Social Security Administration (SSA) field office.

Finally, three new memorandums of understanding (MOUs) have been released. The new documents are easier to understand and include updated privacy provisions and instructions for reporting security breaches. The E-Verify process has not changed, and existing users won't need to execute new documents, but users will be bound by the new documents effective January 8, 2014. The new documents are available at www.uscis.gov/e-verify/publications. ✤



**FLORIDA EMPLOYMENT LAW LETTER** (ISSN 1041-3537) is published monthly for $447 per year plus sales tax by **BLR®—Business & Legal Resources,** 100 Winners Circle, Suite 300, P.O. Box 5094, Brentwood, TN 37024-5094. 

Editorial inquiries should be directed to G. Thomas Harper at The Law and Mediation Offices of G. Thomas Harper, LLC, 1912 Hamilton Street, Suite 205, Post Office Box 2757, Jacksonville, FL 32203-2757, 904-396-3000. Go to www.EmploymentLawFlorida.com for more information.

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