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**Hiring Illegal Immigrants—More Lawsuits Against Employers**

Canyon County, Idaho recently filed a racketeering lawsuit against some agricultural company employers who hired illegal immigrants. The lawsuit is an attempt to recoup monies paid by the county for medical care, jails, and education expenses for the illegal immigrants. The county has previously unsuccessfully attempted to have the county declared a disaster area due to illegal immigration, and to charge Mexico for some of the same expenses that are subject of the lawsuit.

This may be one of the first lawsuits brought by a government entity for these types of damages. The lawsuit claims the county “has been forced to spend money to provide medical and criminal justice services” for the illegal immigrants. Under the federal racketeering statute, the county stands to receive triple damages if it is successful in the lawsuit.

Employers should be diligent in complying with federal I-9 requirements to avoid such a lawsuit. Specifically, the I-9 process should be completed for every new employee, and the employer must review the original identity and employment eligibility documents provided by each employee. Employers should also be aware that they can also be held liable if they “know or should have known” that employees of independent contractors hired by the company are unauthorized.

If your company needs assistance with developing an I-9 compliance policy, or if you have other general questions regarding compliance with federal immigration and hiring laws, contact Carol A. Entelisano at (205) 633-0268 or centelisano@tannerguin.com.

**Online Verification of Workers’ Social Security Numbers**

Social Security Online – an updated method for verifying social security numbers of new hires – is now available to employers at www.ssa.gov. Employers may use the service only for new hires after they have offered them a job. If the service is used for new hires, it must be used for ALL new hires. But remember – a mismatch does not constitute evidence of the employee’s immigration status, and is not a basis, in and of itself, for taking adverse employment action against an employee.

Employers must register to use the online service and obtain a PIN and password (which

typically takes several days to receive after registration). Once registered, users may enter numbers for up to 10 employees at a time and find out immediately whether those numbers agree with the Social Security Administration’s records.

An employer may also use the service to verify social security numbers for its entire workforce to ensure that the company’s records for current and former employees are accurate for completing of Forms W-2.

If you have additional questions regarding use of the service, or if you have other

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## Online Verification of Workers' Social Security Numbers

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questions regarding social security number "mismatches" and what you should do (or not do) in response to a mismatch

letter, contact D.W. Wilson at [dwilson@tannerguin.com](mailto:dwilson@tannerguin.com), Carol A. Entelisano at [centelisano@tannerguin.com](mailto:centelisano@tannerguin.com), or either attorney at (205) 633-0200.



## What's Your Company Policy for Preventing Identity Theft?

The Federal Trade Commission (FTC) recently settled a case against a large warehouse store operator for the company's failure to protect its customers' sensitive personal information. The failure resulted in fraudulent transactions of around \$13 million.

The FTC noted the following shortcomings in the company's practices that may have resulted in the information breach:

- ◆ Failing to encrypt information it collected and stored on its in-store computer networks;
- ◆ Storing the information in files that could be accessed anonymously and failing to have sufficient measures in place to detect unauthorized access; and
- ◆ Creating unnecessary risks to the information by storing it for extended periods of time when it no longer had a

business need to keep the customer information.

The FTC required the warehouse operator to evaluate internal and external risks to the information security and to develop an information security program based upon the results of that evaluation. Other businesses should note that FTC rules require certain companies to have such an information security program in place. Employers must also take reasonable measures to protect its employees' private information.

For additional information and assistance in formulating an information security program for your company and implementing appropriate record retention and destruction policies, contact D.W. Wilson at [dwilson@tannerguin.com](mailto:dwilson@tannerguin.com), Carol A. Entelisano at [centelisano@tannerguin.com](mailto:centelisano@tannerguin.com), or either attorney at (205) 633-0200.

*"...FTC rules require certain companies to have an information security program in place..."*

## Department of Labor Targeting Construction Employers under Child Labor Laws

The U.S. Department of Labor recently launched its "YouthRules! Initiative" aimed at increasing awareness about youth employment laws in construction industries. An electronic seminar is available online at [www.youthrules.dol.gov](http://www.youthrules.dol.gov) that outlines the jobs youth may perform and the number of hours they may work. The program details some significant changes affecting the construction industry, including uses of prohibited equipment and other prohibited activities.

Minors under 16 may only work limited hours and they may only perform office or sales work in the construction industry. Sixteen and 17 year olds may work on construction sites, but the list of "hazardous" tasks and jobs they cannot perform are numerous, including, among others:

- ◆ Driving a motor vehicle;
- ◆ Operating crane, forklifts and many power-driven machines and saws;
- ◆ Working on demolition sites; and
- ◆ Performing roofing or excavation work.

Other state laws, including workers' compensation, provide additional penalties for employers who allow youth workers to perform the hazardous activities and tasks.

If you have additional questions or concerns regarding use of minor workers in your company, please contact D.W. Wilson at [dwilson@tannerguin.com](mailto:dwilson@tannerguin.com), Carol A. Entelisano at [centelisano@tannerguin.com](mailto:centelisano@tannerguin.com), or either attorney at (205) 633-0200.



## This Just In...

- Tanner & Guin, LLC serves as plaintiffs' co-counsel in the HealthSouth ESOP class-action litigation, recently settling the employees' claim against HealthSouth for fraudulent stock dealings in violation of ERISA for \$25 million. The settlement still must be approved by the court.
- A recent New Jersey court ruling may restrict employers' desires to furnish employment references. In that case, a current employer contacted a former employer to get information about an employee. The former employer gave out erroneous information about the employee's former job title, and she was ultimately fired for misrepresenting information on her job application. The former employer is now facing a negligent misrepresentation claim. This case is an excellent example of why you should have policies and procedures in place to limit the information given in employment references (whether good or bad!). References should generally be limited to a simple verification of the person's dates of employment and whether the person is eligible for rehire. Otherwise, you may open up your company to a lawsuit similar to the New Jersey employer.



## Upcoming Seminars

Members of the Tanner & Guin, LLC Commercial and Litigation Group will be speaking at the following seminars in the near future:

### **Creditors Crack the Whip: How the New Bankruptcy Laws Affect Your Business**

Date: September 15, 2005

Location: Tuscaloosa, Alabama, Tanner & Guin, LLC

Time: 7:30 a.m. - 9:30 a.m.

Speakers: D.W. Wilson, Carol A. Entelisano and Justin Williams

### **How to Stay Out of a Lawyer's Office: Preventing Litigation for Your Company**

Date: November 1, 2005

Location: Tuscaloosa, Alabama, Bryant Conference Center

Time: 8:30 a.m. - 3:30 p.m.

Speakers: David E. Rains and Justin Williams

If you would like information on attending one of these seminars or are interested in having a Tanner & Guin attorney speak to your group or company, please call Debra Robinson at (205) 633-0222.

## Tanner & Guin On the Web

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