

Good Faith Compliance

By Ann Allott

The Best Defense is a Good Offense

Because of the current enforcement atmosphere it is more important than ever for employers to have a **good faith compliance plan** that meets the criteria set forth in this statute:

INA 274A (a) (3) provides a defense for a business or person that establishes it has complied in good faith with the requirements of the law correctly using the Form I-9 with respect to the employment of an alien in the United States.

In other words, if you complete the Form I-9 correctly for every new hire and you do not acquire constructive knowledge and you use E-Verify, you will be able to demonstrate “good faith” in complying with the law and you should not have to worry about going to jail or going bankrupt if your business is the subject of an audit or raid by ICE.

Until recently, businesses have failed to take the Form I-9 seriously. Because the law was not vigorously enforced for many of its 23 years, some industries have become dependent on comparatively cheaper, undocumented workers who, because of their length of employment are highly skilled, irreplaceable workers. Employers argue the survival of their business depends upon the undocumented workers. Workers’ rights advocates argue illegal immigrants depress their wages and working conditions. This debate has caused special laws concerning employer sanctions in all 50 States. The battle is raging!

While the battle is raging, the employer remains the target for enforcement and the person most responsible for stopping undocumented workers from coming into the US workforce. This has put a huge burden on some employers who must choose to downsize their business, lose key workers, or face many serious criminal charges or bankruptcy because of steep fines. Because all enforcement is selective, those choosing to comply with the law are doing so on an unfair playing field with employers who have not been targeted. It puts employers who try to comply with the law at a huge disadvantage in the marketplace, hiring and training US workers, while providing dishonest employers with an advantage.

Fear of going to jail and or paying fines that will bankrupt their business is the motivation that compels many employers to start an in- house clean up of their personnel files, paperwork, and hiring practices. Knowing how to start is the most difficult part.

For information about employer representation for Form I-9 investigations, Form I-9 compliance or any immigration matters, please contact Allott Immigration Law Firm at **303-797-8055** or toll free at **877-750-0022**. Email: usimmlaw@allott.com

Ann Allott practices immigration law in her own law firm established in 1976 in the Denver suburb of Centennial, Colorado, serving the Rocky Mountain region. She received her J.D. from the University of Colorado School of Law. She joined American Immigration Lawyers Association (AILA) in 1977 and has participated in many phases of its activities. Ms. Allott's recently-updated handbook, *Employer Handbook on the Hiring of Authorized Workers*, has been a useful tool for employers. She was the recipient of the AILA Colorado Chapter's Career Service Award for her contributions to immigration law and years of exemplary service to AILA. She was featured in *5280 Magazine* as one of Denver's top lawyers and has been listed in *Best Lawyers in America* for many years. In 1998, she received the Mack Award for *pro bono* services concerning naturalization issues.