



**August 27, 2009**

**Special Alert:**

**US District Court Upholds Implementation of  
E-Verify Rule Starting September 8, 2009**

\*\*\*\*\*

On August 26, 2009, the United States District Court for the District of Maryland, Southern Division, issued a decision in *Chamber of Commerce of the United States of America, et. al. v. Napolitano* upholding implementation of the federal E-Verify rule for government contractors. The case challenged the legality of Executive Order 13,465, and the regulations issued to amend the Federal Acquisition Regulation (“FAR”). The Executive Order requires that all federal contractors (with some minor exceptions) use E-Verify to check the employment eligibility of all newly hired employees, as well as all current employees directly working on a federal contract.

Among the claims raised by the Chamber of Commerce were that the issuance of the Executive Order and regulations was legislative in nature and thus exceeded the President’s executive authority and that the rule was not practical for federal contractors to implement. The District Court dismissed those and the remaining claims finding no merit in the Chamber’s arguments.

Absent any further delays, the rule is scheduled to go into effect on September 8, 2009. Federal contracts awarded, as well as solicitations issued after September 8, 2009, are required to include the E-Verify clause. Federal contractors should be prepared to demonstrate compliance with these provisions or risk the termination of their contract and debarment from the federal contract system. With September right around the corner, employers must identify which employees will be working on federal contracts and audit their current I-9s to ensure compliance. Depending on size of the company, this can be time-consuming, complex and may require outside assistance.

Federal contractors participating in E-Verify for the first time must enroll within 30 days of the contract award and begin using the system for newly hired employees within 90 days of enrollment. As for existing employees assigned to a federal contract who were not

## CLIENT ALERT

previously E-Verified, federal contractors will have up to 30 days after the employee's assignment to the contract to initiate an E-Verify check of these employees.

For further information regarding this alert, the E-Verify check program, or immigration compliance please contact any of the attorneys below.

For more information, please contact:

New York  
Robert S. Groban, Jr.  
212/351-4689  
[rgroban@ebglaw.com](mailto:rgroban@ebglaw.com)

New York  
Pierre Georges Bonnefil  
212/351-4687  
[pgbonnefil@ebglaw.com](mailto:pgbonnefil@ebglaw.com)

Miami  
Hector A. Chichoni  
305/579-3270  
[hchichoni@ebglaw.com](mailto:hchichoni@ebglaw.com)

Atlanta  
William Poole  
404/923-9035  
[wpool@ebglaw.com](mailto:wpool@ebglaw.com)

San Francisco  
Jang Im  
415/398-3500  
[jim@ebglaw.com](mailto:jim@ebglaw.com)

Houston  
Nelsy Gomez  
713/750-3136  
[ngomez@ebglaw.com](mailto:ngomez@ebglaw.com)

Newark  
Patrick G. Brady  
973/639-8261  
[pbrady@ebglaw.com](mailto:pbrady@ebglaw.com)

ATLANTA • BOSTON • CHICAGO • HOUSTON • LOS ANGELES • MIAMI  
NEW YORK • NEWARK • SAN FRANCISCO • STAMFORD • WASHINGTON, DC

[www.ebglaw.com](http://www.ebglaw.com)



*This document has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice. Please consult your attorneys in connection with any fact-specific situation under federal law and the applicable state or local laws that may impose additional obligations on you and your company.*

© 2009 Epstein Becker & Green, P.C.

Attorney Advertising