

January 2009

### **Legal Alert: New Employer Obligations for the New Year**

New York employers should be aware of new obligations in the area of I-9 forms, notice of rights for convicted persons, which must be given whenever an applicant or employee is asked to undergo a background check, and privacy rights of employees.

#### **New I-9 Form**

Although the US Citizenship and Immigrations Services department redesigned the I-9 form, used to verify authorization to work in the US, one year ago, all employers must use a new form starting on **February 2, 2009**. The revised form changes the list of authorized documents that can be used to verify identity and employment authorization. The most significant change is that expired documents, such as an expired US passport, may no longer be used for verification. The new form must be used for new hires on or after February 2, 2009, as well as for any employment reauthorizations (i.e. for an authorization that expires on or after that date). *The form may be obtained from [www.uscis.gov](http://www.uscis.gov) starting February 2, 2009, or by calling the CIS National Customer Service Center at 1-800-375-5283.*

#### **Notice of Rights of Persons with Prior Criminal Convictions**

New York State has long had a law, Article 23-A of the Corrections Law, which prohibits discrimination in employment against applicants and employees with prior criminal convictions, subject to a balancing test of such factors as relationship of the crime to the job, and the length of time that has passed since the conviction. In order to ensure that employers and applicants are aware of this law, New York State now requires, starting in February, 2009, that all employers (a) post a copy of Article 23-A in a conspicuous place and (b) also provide a copy of Article 23-A to each applicant and employee on whom a criminal background check is performed.

#### **Protection of Employee Personal Information**

New York State employers must develop policies and procedures to safeguard employees' social security numbers and other personal identifying information or risk a penalty of up to \$500 for "knowing" violation of a law that became effective **January 3, 2009**. "Other personal identifying information" includes home address or phone number, personal e-mail address, Internet ID, mother's maiden name, and driver's license number. Such safeguards include limiting access to this information to persons with a need to know. This new statute supplements other laws requiring all businesses to safeguard

personal information and to render the information unreadable prior to discarding records in any medium containing such information.

***This alert is meant to provide general information only and not legal alert. For further information, contact Judith Moldover at Lawyers Alliance for New York at (212) 219-1800 ext. 250 or visit our website [www.lawyersalliance.org](http://www.lawyersalliance.org) for further information.***

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