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## MORE ABOUT DAYNA WHEATLEY, LLC

The mission of Dayna Wheatley, LLC is to:

- 1) Provide excellent representation for its clients for a reasonable fee; and
- 2) Work for the betterment of its client communities.

Dayna Wheatley, LLC does not "choose sides" as to whether we will represent only plaintiffs or employers, although we are sensitive to conflicts of interest. Rather, we advocate for fair employment practices and against abuses of the system.

Dayna Wheatley started the law firm of *Dayna Wheatley Chang, LLC* on April 1, 2004. Since that time, she has served as legal counsel to individuals, employers, religious and other non-profit organizations in the Chicago metro area. The firm's current references include



Dayna Wheatley, LLC is located in the historic district of downtown West Chicago.

World Relief, Administer Justice, Abogados America, Family Focus and the Consulate of El Salvador. The firm also seeks to be active in professional organizations and volunteers its time to support important client causes such as

immigration reform, U.S. citizenship drives, and educating employers about how to best protect themselves and their workers from government violations and/or employee lawsuits.

Dayna Wheatley, LLC moved to the historic district of downtown West Chicago in May, 2007. Normal office hours are from 9:00–5:00 during the week, but we will schedule appointments after hours and on Saturday mornings as necessary. The office is easily accessible from I-88, Rt. 38, Rt. 59 and Rt. 64. It is also possible to schedule appointments in downtown Chicago. Laura Galvez, our office manager, is fluent in Spanish.

If you talk to us, you will find that as a firm we live up to our mission statement. We will look forward to your call or visit! ■

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# FOR YOUR INFORMATION

### INSIDE THIS ISSUE:

<i>New I-9 Compliance Regulations, Cont'd</i>	2
<i>The Status of the New E-Verify Program</i>	2
<i>Changes in State Discrimination Law</i>	3
<i>Future Seminars</i>	3
<i>Other Legal Updates: Employment Discrimination</i>	3
<i>More About Dayna Wheatley, LLC</i>	4

## AGNIESZKA JURY JOINS THE FIRM

The year 2007 was full of changes for the law firm of Dayna Wheatley, LLC. In May, we moved our office from the Loop in Chicago to the city of West Chicago. In September, we hired Laura Galvez as our part-time office manager and Spanish interpreter. Now the firm's team is complete with the addition of Agnieszka (Agnes) Jury to the practice.

Agnes was born and raised in Poland. She emigrated to Montreal, Canada at the age of 12, and immigrated to the United States in 2000. She is fluent in Polish and French as well as in English.

Agnes graduated from The John Marshall Law School in January, 2007 and passed the bar exam soon afterward. In law school, she was active in Moot Court, participated in the Chicago Bar Association Moot Court competitions, and served as President of The Canadian Law Society.

Prior to graduating from law school, Agnes was the Office



Left to Right: Dayna Wheatley, Agnes Jury, and Laura Galvez.

and Human Resources Manager for three mid-size businesses. She also served as the Director of Human Resources for a national property management firm with over 150 employees. As a result, Agnes is well qualified to represent clients from both the employer and employee perspectives, and she can share a wealth of practical information about business management.

Agnes also has much to

offer our immigration practice because she herself has gone through the process, and because she has a passion for assisting others to enter, work and live in the United States.

Agnes is married, lives in Geneva and is expecting her first child in the spring. She is proving to be an excellent, dedicated attorney and the firm is excited that she is with us. ■

## WHAT IS NEXT FOR IMMIGRATION REFORM?

Immigration reform failed in 2007 but is not completely dead. Should Senator McCain or a Democrat become elected to the White House this year, it is possible that comprehensive reform measures beyond border security could occur within the next four years. It is important that employers who could benefit from a guest

worker program, who would like to sponsor valued workers for permanent residence, or to hire aliens under the H-1B visa program be more vocal to their Congressional representatives next time around. It is also important that the public be better educated as to how immigration reform would benefit everyone.

As always, we will be keeping abreast of any proposed changes that will affect our clientele and will be sure to communicate them. In the meantime, we continue to look for alternative options to assist employers with their hiring needs. ■

*Dayna Wheatley will be speaking further about this subject at the West Chicago Chamber of Commerce HR Roundtable meeting on February 28, 2008, 7:30 –9:00 a.m. This meeting is free of charge and open to the general public. If interested in attending, please RSVP to Wayne Lofton Jr. at 630-231-3003.*

## NEW I-9 COMPLIANCE REGULATIONS CANNOT BE DISREGARDED

Effective December 26, 2007, the federal government issued a new version of the I-9 Employment Eligibility Verification form used to document the legal right of employees to work. Everyone hired as of this date must use the new form, available at [www.irs.gov](http://www.irs.gov) or [www.uscis.gov](http://www.uscis.gov), or face fines and penalties.

The purpose of the new I-9 form is to remove documents that lack security protections against fraud, streamline the verification process, and to promote enforcement. The revisions remove some "List A" documents as proof of identity and work authorization and added the

most recent version of the employment authorization card. Employees hired prior to December 26, 2007 do not need to complete a new I-9 form unless the employee's employment authorization expires. Employers will not need to provide a Social Security number in Section 1, unless they participate in the new E-Verify program.

Due to increased workforce audits by Immigration and Customs Enforcement (ICE), these new regulations cannot be disregarded. In 2005, for example, fines and civil penalties collected by the federal government totaled about \$6,500.00. However,

in just the first ten months of 2007, fines exceeded \$35 million. Additionally, assets are being frozen, and owners, officers and even managers are being charged criminally for I-9 violations. Therefore, it is very important for employers to formulate sound methods for I-9 documentation and training, to devise potential raid strategies, and to know the rules and any defense for failures to comply. A Handbook for Employers about the I-9 can be found at [www.uscis.gov](http://www.uscis.gov). Our firm is also available to assist with I-9 audits and advice on all of the issues discussed in this article. ■

## THE NEW REGULATIONS INVOLVING "NO-MATCH" LETTERS

The U.S. Immigration and Customs Enforcement (ICE) Agency is attempting to amend its rules about the un-lawful hiring of and/or the continued employment of unauthorized aliens.

The amended regulations describe the obligations of an employer, under current immigration law, when the employer receives a "No-Match" letter from the Social Security Administration (SSA) or if it in the future receives a letter regarding employment verification forms from the Department of Homeland Security (DHS), as well as "Safe Harbor" procedures that the employer can follow upon receipt of a no-match letter to protect itself from allegations that the employer had "constructive knowledge" that the employee in question was not authorized to work in the U.S.

According to the proposed final regulations, an employer will have, from receipt of the

"no-match" letter, up to thirty (30) days to make necessary correction of errors and verify corrections with SSA or DHS. They will have up to ninety (90) days to notify employees of the problem and ask them to assist in correction of the discrepancy.

If the discrepancy is not resolved within ninety (90) days, there is an alternative verification procedure that the employer may follow. This procedure will allow the employer to verify or fail to verify the employee's identity and work authorization.

Ultimately, if the issue referred to in the "no-match" letter is not resolved, and the employee's identity and/or work authorization cannot be verified using a reasonable verification procedure, the employer must choose between: 1) taking action to terminate the employee, or 2) facing the risk that DHS may find that the employer had "constructive knowledge" that

the employee was an unauthorized alien and by continuing to employ the alien, violated immigration law, subjecting itself to both civil and criminal penalties.

Employers must apply these procedures uniformly to all of their employees having unresolved "no-match" indicators; otherwise, they may commit or be accused of unfair immigration-related employment practices. According to current law, it is illegal for a person or entity to discriminate against any individual (other than an unauthorized alien) with respect to hiring, recruiting or referral for a fee, of the individual for employment or discharging of the individual from employment because of such individual's national origin or citizenship status.

This is a very complex topic and our firm will discuss it in more depth at one of the seminars listed on the following page. ■

## NEW PROCEDURE IN STATE DISCRIMINATION LAW

Prior to January 1, 2008, if a person filed an employment discrimination claim via the State Department of Human Rights for investigation, s/he had to continue the case with the Illinois Human Rights Commission after the Department closed its investigation. The person would not have been able to sue in circuit court. However, complainants now have the right to choose whether they would like the state commission to proceed with their case, to go before an administrative law judge, or to file in the county circuit court system. Should a complainant choose to file suit in circuit court, they will enjoy the same discovery

procedures as any other case (under Commission Rules, depositions are not allowed without rare permission from the judge). Another important change is that complainants will have the right to a jury in state circuit court, an option denied to them in the Human Rights Commission.

The fear of many employer defense lawyers is that juries will grant higher awards for complainants. Additionally, the cost of defense in state courts will be higher because the discovery process in the Human Right Commission is minimal when compared to the state courts and plaintiffs in state courts have a far greater variety of motions that

can be filed.

It remains to be seen how State judges inexperienced in discrimination matters will rule.

In light of these changes, it is more important than ever to have policies and procedures carefully designed to avoid claims of employment discrimination, as well as to consider arbitration or other similar agreements signed at the time of hire.

Our firm provides such services for employers, and we encourage you to contact us to help you avoid and respond to potential legal discrimination problems. ■

## THE STATUS OF THE E-VERIFY PROGRAM IN ILLINOIS

The Department of Homeland Security (DHS) E-Verify program is meant to facilitate verification of employee social security numbers against the records of the Social Security Administration. DHS intends to make the use of its E-Verify program mandatory for government contractors, government vendors and government agencies.

Illinois, however, took a unique stand by passing a law in early 2007 that **prohibits** Illinois employers **from enrolling** in the E-Verify program. The law was scheduled to take effect on 1/1/08. However, in September of 2007, DHS sued Illinois and asked the court to declare this new law illegal. At this time, state legislature is considering possible changes to the Illinois law.

In the meantime, Illinois has agreed **NOT** to penalize employers simply for participating in the program, at least until the DHS v. Illinois lawsuit is finished. This means that those Illinois employers already enrolled in E-Verify may continue to use it. Businesses not currently enrolled in E-Verify may also continue to enroll in the program. ■

## UPCOMING EMPLOYER SEMINARS

Our firm will be offering the following seminars in 2008:

### **Best Employment Practices 101.**

This six-hour seminar will be geared to smaller businesses that may not have trained HR Managers. We will walk attendees through all the basics such as hiring, documentation requirements, wage and other labor laws,

insurance, and terminations.

### **Avoiding Sexual Harassment and Discrimination Lawsuits.**

This three-hour seminar will include practice tips and an overview of the important differences in state and federal discrimination law, as well as between the procedures for claims filed against employers with the Illinois Human Rights Department and the Equal

Employment Opportunity Commission (EEOC).

### **Sponsoring Aliens for Employment Visas and Permanent Residence.**

This three-hour seminar will cover the different options available to employers who wish to hire workers both within and without the U.S.

Consultations and custom-tailored training is also available upon request. ■

*Dayna Wheatley is a certified trainer and teaches legal subjects for paralegal students at DePaul University.*