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December 12, 2007

Elliott Greenleaf has been repeatedly selected as a "Go To" law firm for commercial and employment matters by the Fortune 250, as reported in *Corporate Counsel* magazine. In these areas, immigration and the impact of changes in immigration law and procedure upon employers and employees remains a major concern. We have learned from our clients that immigration issues, particularly with our commercial, health care and entrepreneurial clients, present complicated, and often confusing, concerns.

To more fully address your immigration issues, we are proud to announce that **Akanksha Kalra, Esq.** has joined our law firm, practicing in our Blue Bell office. Akanksha has a sophisticated **immigration and nationality law** practice with corporate and individual clients throughout the United States. She has extensive experience in various immigration issues facing healthcare, medical, engineering, construction and a wide array of businesses. She is a national lecturer/commentator on immigration issues. A high honors graduate of law school in New Delhi, India and University of Pennsylvania law school (LLM), and a member of the New York Bar, Akanksha also has experience in corporate law and international business transactions, particularly in India.

As you may have heard, Form I-9 required by the Department of Homeland Security to be completed by every employer has been revised recently. In the attached memorandum, Akanksha describes these developments. We are confident that you will find Akanksha's detailed insights to be very helpful to you, and those like you who regularly face these difficult questions.

Please contact Akanksha at (215) 977-1043 or aak@elliottgreenleaf.com to learn more about this cutting edge issue, or to address any immigration concern that you may have. Akanksha is a valuable resource for you and a treasured addition to Elliott Greenleaf's employment, commercial, health care and regulatory practices. We ask that you contact Akanksha whenever you, or your colleagues, are reviewing immigration questions.

Yours truly,



MARK A. KEARNEY

MAK/nac

MEMORANDUM

FORM I-9, EMPLOYMENT ELIGIBILITY VERIFICATION

Under the Immigration Reform and Control Act (IRCA) of 1986, all U.S. employers are required to verify the employment eligibility and identity of all employees hired to work in the United States. All employers (regardless of size or number of employees) must complete an Employment Eligibility Verification Form I-9 to verify and document the employment authorization of all employees, including U.S. citizens. However, Form I-9 is not required if:

- the employee was hired before November 7, 1986, and has been continuously employed by the same employer;
- for an employee providing domestic services in a private household that are sporadic, irregular, or intermittent; or
- for an employee providing services for the employer as an independent contractor (i.e. carry on independent business, contract to do a piece of work according to their own means and methods and are subject to control only as to results for whom the employer does not set work hours or provide necessary tools to do the job, or whom the employer does not have authority to hire and fire); or
- for an employee providing services for the employer, under a contract, subcontract, or exchange entered into after November 6, 1986. (In such cases, the contractor is the employer for I-9 purposes; for example, a temporary employment agency.)

NEW FORM I-9

The U.S. Citizenship and Immigration Services ("USCIS", formerly known as "INS") has recently released a new version of Form I-9, Employment Eligibility Verification and an updated Handbook for Employers, Instructions for Completing the Form I-9. The amended Form I-9 contains an updated list of acceptable identity and employment authorization documents that reflect the current regulations. Form I-9 must be updated when the document provided by the employee for employment authorization has an expiration date.

Employers are not required to re-complete the new version of Form I-9 for existing employees for whom there is already a properly completed Form I-9 on file. The new Form I-9 only needs to be used for new employees and any existing employees who may require re-verification.

Please note that as of November 7, 2007, the amended Form I-9 is the only valid version of the form. USCIS has allowed a period of time for transition to the new form and will not seek penalties against an employer for using a previous version of the Form I-9 on or before December 26, 2007. After December 26, 2007, employers who fail to comply with the new Form I-9 requirements may be subject to all applicable fines and penalties under immigration law as enforced by U.S. Immigration and Customs Enforcement ("ICE").

RETENTION OF FORM I-9

The law requires the employers to maintain I-9 records in its own employee files for 3 years after the date of hire or 1 year after the date the employee's employment is terminated, whichever is later. This means that Form I-9 needs to be retained for all current employees, as well as terminated employees whose records remain within the retention period. Form I-9 is not required to be filed with USCIS or the Department of Labor ("DOL"); however, if an official request is made for production of Form I-9 records, the employer must produce the document for inspection within 3 days of such request by USCIS, ICE or DOL.

It is important to remember that employers who fail to properly complete Form I-9; or knowingly hire or continue to employ a foreign national with an expired visa or status; or hire a foreign national who does not have valid employment authorization; or provide or knowingly accept false social security cards, may be subject to civil penalties. Non compliance with Form I-9 requirements can adversely affect a company's corporate image and expose the employer to significant risk and liability. It is good business practice for employers to regularly conduct trainings and internal audits to monitor compliance with immigration regulations.

We can provide assistance with Form I-9 compliance issues and can provide training and recommendations for establishing procedures to ensure corporate compliance with the relevant immigration regulations.

For more information about the foregoing or other immigration related matters, please contact:

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