

OVB LAW & CONSULTING, S.C.

Your Legal Nook!



NEWSLETTER

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Megan Mirka
Employment Attorney

3 Year Anniversary!



It is an honor to recognize Attorney Mirka, AKA “Superstar”, on her three-year anniversary with OVB Law & Consulting, S.C. Attorney Mirka has been passionately fighting for client rights and delivering justice with unwavering dedication ever since she joined our team.

With a fierce determination to protect the rights of every client, she has become a beacon of hope for those seeking justice in the often murky waters of employment law. Her unwavering commitment to upholding the law and advocating for fairness is truly commendable.

Tune in to the latest episode of the Bottom Up Podcast!

The "Bottom-Up" podcast aims to provide valuable insights and information on legal matters to attorneys and legal professionals. It features interviews with experts in different areas of law, discussing current issues, trends, and developments in the legal field.

Each episode of the "Bottom-Up" podcast delves into specific legal topics and offers practical advice and guidance for attorneys. The discussions are informative and engaging, providing listeners with valuable knowledge and perspectives from experienced professionals in the legal industry.





CAN SOCIAL MEDIA BE USED AS EVIDENCE IN COURT?

Yes. When you are involved in a lawsuit, especially if you are a named party, there is a very good likelihood that your personal information will be exposed: to your attorney, to opposing counsel, to your adversary, and to the Court.

Part of the evidence-gathering process involved in a lawsuit, labeled as the ‘discovery’ process, involves identifying as much information as possible on the parties involved in the suit – this can mean diving deep into a party’s personal information. Lawyers are tasked with finding facts to support their client’s position and social media is fair game in the fact-finding arena. Meaning, if you are a plaintiff in a person injury suit, or any type of lawsuit for that matter, the other side will likely review your public social media profiles and any other publicly available information to bolster their case against you.

To say the least, it is not wise to post a picture of you skiing in the Alps when seeking damages for injuries sustained in a car accident. Similarly, it would not be wise to post pictures of you taking a months-long vacation while suing your former employer in an employment discrimination case.

Your allegations, demanded damages, and claims could be discredited and invalidated in a deposition, or in trial, if the other side finds these posts and uses them to show your failure to mitigate your damages or to attack the credibility of your alleged injury.

This was illustrated in the recent trial involving Gwyneth Paltrow in which she was sued for a skiing crash involving the Plaintiff. The Plaintiff claimed that his life was substantially affected from the injuries he sustained from Paltrow’s supposed negligent skiing, but this theory was quickly weakened when Paltrow’s attorneys questioned him about his trips taken all over the world since he sustained the claimed injuries. However, herein lies the tricky part; if you find yourself scratching your head and now want to check out your social media pages and are a current party in a suit, deleting or destroying pictures or posts you have already posted could make it seem like you are hiding something, or even worse constitute the spoliation of evidence.

The bottom line is this: be truthful, don’t tamper with evidence, and only file a lawsuit if you are ready to bare it all. You won’t have anything to hide if you have nothing to hide.

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UNDERSTANDING THE RECENT CHANGES TO I-9 FORMS AND ENSURING COMPLIANCE

On July 21, 2023, the United States Citizenship and Immigration Services (USCIS) announced a new version of the Form I-9 would go into effect on August 1, 2023. While previous version of the form can still be used until October 31, 2023, all employers are required to transition to the new Form I-9 by November 1, 2023.

The updated Form I-9 includes several notable changes aimed at improving its clarity and usability. Some of these changes include:

- *Clearer Instructions:* The instructions accompanying the Form I-9 have been revised to provide clearer guidance to employers and employees on how to complete the form accurately. The aim is to reduce confusion and errors during the verification process.
- *Preparer/Translator Certification:* The new form separates the Preparer/Translator Certification section into a separate supplement that should be used only when necessary. This change allows for better organization and documentation when a preparer or translator is involved in completing the form.
- *Updated List of Acceptable Documents:* The list of acceptable documents that employees can present to establish their identity and work authorization has been revised in the new Form I-9. These revisions ensure that the list remains up-to-date and reflects current regulations.
- *Reverification and Rehire Section:* Similar to the Preparer/Translator Certification, the Reverification and Rehire section has also been separated into a separate supplement to be used when necessary. This change streamlines the process of documenting reverification and rehiring scenarios.

Employers are also obligated to perform an in-person assessment of identity and employment eligibility documents, which were previously examined remotely or virtually (as a result of the COVID-19 Pandemic). This assessment must be completed by August 30, 2023. The requirement for in-person verification applies to all employees, including those who continue to work remotely and employers who have transitioned to a fully remote business model, closing all physical locations.

Furthermore, electronic signatures are now accepted on all versions of the I-9 forms, including those completed electronically or on paper. This change provides flexibility for employers who choose to use electronic systems for managing their I-9 forms. However, it is crucial for employers to understand that electronic signatures must meet specific requirements outlined by USCIS to be considered valid. Employers should familiarize themselves with these requirements and ensure that their electronic signature processes comply with the guidelines.

To ensure compliance with the updated I-9 forms, employers should review their current practices and make any necessary adjustments. It is essential to train HR personnel responsible for completing I-9 forms on the changes and provide them with updated instructions. Additionally, employers should conduct internal audits to identify any potential errors or inconsistencies in their existing I-9 records. By proactively addressing these issues, employers can mitigate the risk of penalties and maintain compliance with immigration and workplace authorization laws.

