

**Sustainable Ag Expo**  
November 2, 2007  
Paso Robles Event Center

**HOT TOPICS IN LABOR  
MANAGEMENT**  
George Daniels, Farm Employers  
Labor Service

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## Hot Topics

- DHS No-Match Letter Rule on Hold
  - No-Match 101
  - What You Should Do
- On the Horizon:
  - Cell Phone Restrictions
  - Meal & Rest Breaks
  - And Other Developments.....

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## No-Match Rule

- DHS No-Match Rule 101
  - IRCA Prohibits **Knowingly** Hiring or Continuing to employ a person without work authorization
  - Knowledge
    - Actual
    - Constructive
  - Constructive Knowledge
    - Inferred through facts or circumstances
    - Lead a person through “exercising reasonable care”
    - To know of a condition
    - Example: fails or improperly completes Form I-9

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## No-Match Rule

- DHS No-Match Rule 101 (Continued)
  - Imputed Constructive Knowledge
    - After getting information fails to take reasonable steps
    - Example: *Mester Mfg. Co. v. INS*
  - Receipt of SSA No-Match Letter doesn't mean employee is unauthorized
  - Not taking reasonable steps to resolve may imply constructive knowledge
  - Safe Harbor Procedures
  - Avoid “Constructive Knowledge”

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## No-Match Rule

- Preliminary Injunction – Oct. 10
- DHS can still apply “Constructive Knowledge” concept
  - Under the “totality-of-the-circumstances” test

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## What Employers Should Do

- Photocopy employee's SS Cards – Attach to IRS W-4
- Follow the SSA Guidelines
  - Check record for errors, typos, etc.
    - Report corrections by submitting W-2c
  - If not resolved
    - Ask employee for assistance
    - Instruct employee to resolve no-match with SSA
    - Report back to company corrected information
  - See Page 3 of Handout

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## What Employers Should Do

- Give Affected Employees a Letter
  - See Page 4 of Handout
- Establish A Company Policy (Pg.2)
  - Employees providing new SSN's/name
  - Procedures to resolve No-Match
  - Garnishment procedures
  - Receipt of credible information
- Document the steps you took

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## On the Horizon

- EEEEC Inspections
  - Heat-Illness Prevention
  - Meal & Rest Breaks
  - Overtime
  - Develop Company Protocol
- Cell Phone Restrictions
  - January 1, 2008
  - Must Use Hands Free in Vehicles

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## On the Horizon (Con't)

- California's Minimum Wage Increases January 1, 2008
  - \$8.00/hour
  - Exempt Employees Salary \$2,773.33/month
- Employee Identification Number Cannot Be Social Security Number
- Governor Sign New Leave of Absence
  - For Spouses of Military Personnel
  - Employers with 25 or more Employees
  - Up to 10 days without pay

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## On the Horizon (Con't)

- Governor Vetoes UFW "Card Check" Bills

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## *Thank you!*

- **George Daniels**
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