

## **How to Win the War When Working With Wal-Mart:**

*One law firm's story of complying with the "roll-back" king's employer compliance program.*

Americans across the country are familiar with Wal-Mart for their "roll-back" prices and friendly service. What most people don't know is that, after their immigration scandals in 2001 and 2003, Wal-Mart has lead the country in enforcing employer compliance with requirements of the Immigration Reform and Control Act of 1986 ("IRCA"). Since paying a record-setting \$11 million to the United States Department of Homeland Security, Immigration and Customs Enforcement Division ("ICE"), Wal-Mart has become the reluctant leader in employer compliance programs. As anyone trying to sign a contract with Wal-Mart will tell you, it's no walk in the park to meet their strict demands, but it is the way of the future for employment verification procedures.

By way of history, in 2001, 100 illegal immigrant janitors were arrested at Wal-Mart stores in Pennsylvania, Ohio, Missouri and New York, and an additional 245 were arrested in October 2003 at 60 stores across 21 states. The allegation that Wal-Mart knew the janitors were illegal was denied by Wal-Mart's top executives; nevertheless they admitted that they should have been keeping a more watchful eye over what their sub-contractors were doing. In a statement from Washington, federal officials announced that 12 janitorial contractors that worked for Wal-Mart had agreed to forfeit \$4 million to the government and to plead guilty to criminal charges of employing illegal immigrants. The workers came from nearly 20 countries, including Mexico, Brazil, the Czech Republic, China, Poland and Russia.

As part of the \$11 million settlement, Wal-Mart was permanently barred from hiring illegal immigrants and was ordered to establish a mechanism to make sure that its contractors "are taking reasonable steps to comply with immigration laws" within 18 months from the settlement date. Wal-Mart has since pledged to train all of its store managers to avoid "knowingly hiring" or "continuing to employ" illegal immigrant workers. Wal-Mart also agreed to continue cooperating with federal officials investigating its contractors. It's no surprise that the regulations Wal-Mart has since built into their sub-contractor agreements are very rigid.

If you're unfortunate enough to have seen the addendums to the Wal-Mart contracts, you are aware that there are stipulations which require all sub-contractors and sub-sub-contractors to follow the ICE "10 Best Practices for Employers", which is a component of ICE's IMAGE ("Ice Mutual Agreement between Government and Employers") Program. Such practices include registering with the E-Verify Program, conducting training programs for all staff related to I-9 compliance, annual internal and third party I-9 audits, implementing an internal tip line, and full cooperation with government officials from the Department of Homeland Security. Not only are these required for the general contractor, but also for all sub-contractors and sub-sub-contractors. Needless to say, it has become burdensome for many small employers who wish to partner with a company such as Wal-Mart.

Nachman & Associates, P.C. is a Global Immigration Law Firm that has successfully helped companies become compliant with the regulations pushed down by Wal-Mart. In fact, other large employers such as Verizon have also been adopting the Wal-Mart compliance plan and requiring it for their own contractors, sub-contractors and sub-sub-contractors. In this era of compliance, it is important that employers can not only be in compliance with the law (as it will most likely only get tougher on violators), but also be able to handle the demands of both the government and large corporations who are pushing down these mandates. As Managing Attorney David H. Nachman says, “when we look into the crystal ball, we can see what’s coming down the pike and it means that employers need to be more vigilant.”

Mr. Nachman and his staff have been training employers about proper employment verification procedures for over a decade and most recently, pursuant to a federal training grant from the US Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (“OSC”), the Nachman & Associates team has been traveling across the tri-state area, and across the country via webinar, to help employers overcome the confusion in this “age of enforcement.” To contact Nachman & Associates for more information on compliance programs or to attend or schedule free training on employment verification procedures, anti-discrimination, E-Verify and IMAGE, please feel free to visit their website [www.visaserve.com](http://www.visaserve.com).