

Judge Rules: Social Security Card is NOT an Identity Document
Commentary by Ann Allott, Allott Immigration Law Firm, July 17, 2008

Social Security Cards are not valid forms of identification. Several Mexicans recently were charged in Federal Court in Chattanooga, Tenn. for using fake social Security Cards as identification.

U. S. District Judge Harry S. Mattice correctly ruled that the cards were not used for identification.

Presenting a fake Social Security card to an employer is not using it as an ID document. When an individual is asked to complete a Form I-9, it is necessary for the person to present a:

- List A document such as a U.S. Passport, which is a document that proves BOTH the person's identity AND work eligibility OR
- List B identity document AND a List C work authorization document. A Social Security card is a List C (work authorization) document, not a List B identity document.

This case brings up several issues concerning the use of Social Security cards and numbers used when completing the Form I-9.

- Section 1 of the Form I-9: The employee is not required to list his or her Social Security number. In at least two states, Michigan and Illinois, it is against the law to request it.
- Section 2 of the Form I-9: The employer may never insist an employee produce a Social Security card. The employee may use any other document in List C. The most common document presented is a U. S. birth certificate.

If the employee uses a Social Security card and it is not in the name he or she is currently using, should you accept it? Examples:

Problem: Mary Smith who has a maiden name of Jones presents a card with the name of Mary Jones.

Answer: The document is acceptable because her maiden name is listed in Section 1 of the Form I-9.

Problem: Cindy Jackson Clark presents a card in the name of Cindy Carlson. Her first husband was Pete Carlson and she is now married to Jack Clark.

Answer: You should not accept the card. Cindy needs to present any other List B document, such as her birth certificate, **OR** go to the nearest Social Security Office to obtain a new card in the correct name. She will get a letter from the Social Security Office that you may accept as a temporary document for 90 days or less until her new SSA card arrives. When the new card arrives, complete Section 2 of the Form I-9 verifying the SSA card is now correct.

*Ann Allott has practiced immigration and nationality law for more than 30 years. The Allott Immigration Law Firm specializes in employer sanctions, immigration and nationality matters serving the Rocky Mountain region. She is the author of *The Employer's Handbook on the Hiring of Authorized Workers* and numerous articles and a nationally recognized speaker and expert on employer sanctions and immigration law. The Allott Immigration Law Firm offers **Smart Form I-9** seminars to educate employers on best practices to avoid employer sanctions, fines and penalties. The schedule is available at www.allott.com or call 303-797-8055 to arrange an in-house seminar.*