

Winter is Coming

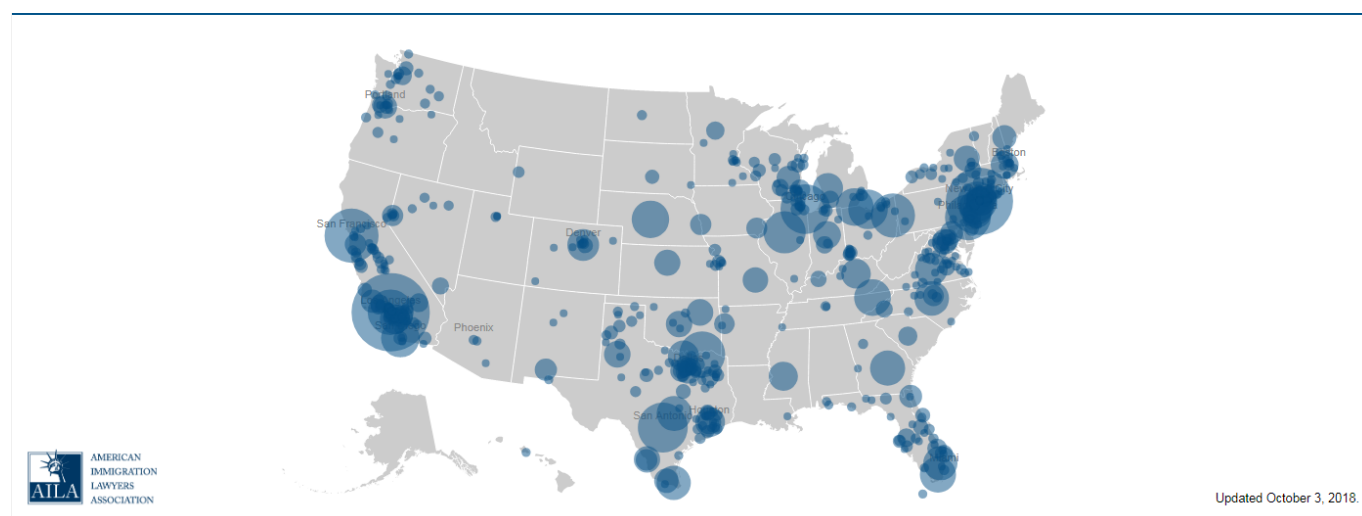
By: Lee Geiger on October 19, 2018 on graydon.law

Special thanks to [Christina Rogers](#) for writing this week's blog.

This year the U.S. Immigration and Customs Enforcement agency (ICE) carried out two of its largest workplace raids in nearly a decade. No, these raids were not in California, New York, Florida, or any of the other typical states that come to mind. These raids took place in **OH-IO**.

You would think after carrying out two major raids that Ohio must have hit its quota for the year and the remaining employers are safe. Think again! Get familiar with the name Michael J. Klinger and fast. No, I am not talking about the famous Australian Cricketer, but the United States Citizenship and Immigration Services Detroit Field Office Director who oversees immigration enforcement in Michigan and Ohio.

Klinger has quadrupled the amount of worksite enforcement investigations and is leading the charge for worksite enforcement. Thanks to Klinger and other Field Office Directors, ICE is well on its path to following through with enforcing Trump's "Buy American Hire American" Executive Order. From October 1, 2017, through July 20, 2018, Homeland Security Investigations (HSI) opened 6,093 worksite investigations and made 675 criminal and 984 administrative worksite-related arrests, respectively.



As if these numbers aren't frightening enough, starting last year ICE increased its penalties

for employer violations. Monetary penalties for knowingly hiring and continuing to employ violations range from \$375 to \$16,000 per violation, with repeat offenders receiving penalties, at the higher end. Penalties for substantive violations, which includes failing to produce a Form I-9, range from \$110 to \$1,100 per violation.

You may be thinking, “ICE? Immigrants? This doesn’t apply to me.” Wrong! Even if your company doesn’t hire immigrants routinely, you are still subject to immigration laws, mainly the ones related to I-9 compliance and using E-Verify.

So what can you do? Make sure all your ducks are in a row. While it may seem that these raids and audits are random, they’re not. These worksite investigations have been specifically targeted towards worksites that have to do with critical infrastructure (e.g., airports, nuclear plants and defense facilities) and industries that typically employ a large percentage of immigrants (e.g., construction, landscaping, and restaurant industries). The year isn’t over yet, and by the looks of it, ICE isn’t stopping until every single employer in the U.S. is compliant.

But how do I do that? Here are a few things to keep in mind to prepare for when ICE comes a knockin’:

- Make sure that all of your I-9 forms are completed fully and accurately.
- Review and assess your company’s hiring practices.
- Don’t rely solely on E-Verify. While the system can be helpful to spot whether documentation is fraudulent, it won’t be able to tell you if the valid ID or social security card that was purchased on the Black Market actually belongs to the person standing in front of you.
- Make sure any H1B Visa employees are properly classified and that their visas are current.
- Have a written response protocol, designate points of contact who will interact with ICE, and plan for the worst case scenario before ICE comes.

Winter is coming and it’s time to get prepared! The best defense is a good offense. Although you won’t have Jon Snow on your team to help you fight off the White Walkers (ICE), you can add experienced Labor & Employment attorneys now to your team to help put your company in a winning position.