

EMPLOYER NEW YEAR'S RESOLUTION #1—GET YOUR I-9S IN ORDER

It's January, and we all know what that means—New Year's resolutions. While many of us will stop going to the gym by the end of the week, we're bringing you a month of employment law resolutions that we hope you keep all year long. First up: the Form I-9.

I-9s are (or should be) completed at the time of hire and then, usually, shoved in a personnel file, never to be thought of again. And, if the form was filled out perfectly, and your retention process is in order, that is sufficient. But perfection is aspirational, and all too often, errors lurk in the initial completion, required reauthorizations, and the retention schedule of these forms.

Given increased federal scrutiny of work authorization, January 2026 is the ideal time to review your I-9 processes and engage in an I-9 audit.

Why Do I Need to Do This?

For years, many employers viewed I-9 compliance as a simple and routine paperwork hurdle. However, several factors make 2026 a high-stakes year for employment eligibility:

1. **Increased ICE Enforcement:** Immigration and Customs Enforcement has significantly ramped up its workplace inspection activity. If your documents aren't in order, you could not only risk losing workers but also face significant monetary penalties.
2. **Increased Fines:** Civil penalties for I-9 violations are adjusted annually for inflation. For 2026, even simple paperwork errors (missing dates, signatures, or checked boxes) can result in fines ranging from hundreds to several thousand dollars *per form*. This potential liability snowballs quickly.

Your 2026 I-9 Audit Checklist

Conducting a self-audit—often with the assistance of legal counsel to maintain privilege and ensure accuracy—allows you to correct errors in “good faith,” which can serve as a powerful mitigating factor if ICE ever serves a Notice of Inspection.

1. Retention Review

Don't keep what you don't need. While you need to have a Form I-9 for each current employee, you are not required to keep them forever after the employee no longer works for the company. You are required to keep I-9s for former employees for the longer of (1) three years after the date of hire; and (2) one year after the date of termination. Purging forms outside this window reduces your overall exposure.

2. The Forms: Are They Filled Out Correctly?

Section 1: The Employee's Responsibility

Check that the employee completed Section 1 no later than their first day of work. Common errors include missing signatures and failure to check a status box (e.g., "A citizen of the United States").

Section 2: The Employer's Responsibility

Ensure this was completed within three business days of the hire date. Verify that the document titles, issuing authorities, and expiration dates are filled in and, if the documents were retained, match the documents presented.

Supplement B (formerly Section 3): Reverification

While Sections 1 and 2 are the focus during onboarding, Supplement B—the section used for reverification and rehires—is often where an audit reveals the most significant compliance gaps. Because this section is only filled out "as needed," many employers fail to track the specific triggers that require its completion. There are three primary scenarios when Supplement B must be filled out:

1. **Reverification:** When an employee's temporary work authorization or employment authorization document is about to expire, you must reverify their eligibility no later than the date the current authorization expires. Because reverification is solely about *work authorization*, you only need to review a List A or List C document (not a List B document). Asking for more documents than required—or asking for specific documents of your choosing—can inadvertently trigger a claim of discrimination. You do not need to reverify U.S. citizens or noncitizen nationals, nor do you typically need to reverify Lawful Permanent Residents.
2. **Rehires:** If you rehire a former employee within three years of the date their original Form I-9 was completed, you have a choice: You can either complete a brand-new Form I-9 or simply complete Supplement B on their original form.
3. **Legal Name Changes:** While not strictly mandatory under federal law, USCIS highly recommends using Supplement B to document an employee's legal name change to ensure your records match your payroll and tax filings.

3. Making Corrections

If you find an error, never use white-out and never backdate. The proper procedure is to:

- Draw a single line through the incorrect information;
- Enter the correct information;
- Initial and date the change (using the date of the correction); and

- Provide a brief explanatory memo.

For major errors, it is often best to complete a new form and staple it to the old one.

Resolution: Be Proactive, Not Reactive

The goal of a 2026 I-9 audit isn't just to fix the past—it's to protect the future. Use this audit to identify where your processes may be breaking down. Is the HR team properly trained? Are you getting alerts about work authorization expiration? Are you purging records when appropriate?

By resolving to audit your I-9s now, you are ensuring that if a Notice of Inspection arrives in your inbox this year, your response will be one of confidence, not panic.

As always, **O'Neil Cannon** is here for you. We encourage you to reach out with any labor and employment questions, concerns, or legal issues you may have, including assistance with I-9 self-audits and responses to Notices of Inspection.

WHAT EMPLOYERS NEED TO KNOW ABOUT NO TAX ON OVERTIME

The One Big Beautiful Bill Act, signed into law on July 4, 2025, introduced a temporary federal income tax deduction for "qualified overtime compensation." Under this provision, eligible employees can deduct a capped amount of their overtime pay from their federal income taxes. However, it is the employer that must track and report the necessary information.

What Can Be Deducted?

The deduction does not apply to *all* overtime compensation. It only applies to the premium portion of overtime required under the FLSA. Under the FLSA, non-exempt employees who work more than 40 hours in a workweek must be paid at a rate of time and one-half (1.5 times) their regular rate. The deduction applies only to the extra *half*—the premium paid *in excess* of the regular rate.

- Example: If an employee's regular rate is \$20/hour, the FLSA overtime rate is \$30/hour. Only the \$10/hour premium qualifies for the deduction. The regular \$20/hour portion of that pay is not deductible.

Importantly, any additional overtime premium required by either state law or a collective bargaining agreement or voluntarily agreed to by the employer (e.g., double time on

holidays) does not qualify for the federal income tax deduction.

Employer Reporting

An employer's payroll system must be updated to segregate and track the specific premium amount of FLSA-required overtime so that overtime premium information can be reported properly.

The new law is retroactive to January 1, 2025, but the IRS acknowledges that system updates take time. Therefore, the IRS has issued guidance providing penalty relief for the 2025 tax year for employers who are unable to file returns showing the new separate accounting.

Because new forms have not been finalized, employers must provide employees with the total qualified overtime compensation by a "reasonable method," as defined by the U.S. Secretary of the Treasury, such as reporting the amount in Box 14 of the Form W-2; providing a separate year-end statement; or making the information available through an employee online portal.

This transition penalty relief will not be available for the 2026 tax year and beyond (the overtime deduction is currently scheduled to sunset after 2028), so employers will be required to provide all necessary reporting. The IRS has released a draft W-2 indicating that the total amount of qualified overtime compensation must be reported in Box 12 using a new, specific code (i.e., draft code "TT"), although this draft is subject to change before it is finalized. Employers should immediately begin working with their payroll provider (or internal team) to confirm that they have everything in place to handle this new mandatory W-2 field for the 2026 tax year.

Educate Employees (Carefully)

Employees will undoubtedly have questions, especially as their paystubs or W-2s begin to look different. Employees with questions about claiming the deduction or assessing their ultimate tax liability should be directed to their own tax professionals. The employer's sole obligation is to properly identify and report the qualified overtime amount on the employee's W-2.

Classification Risk

The new tax benefit potentially makes the value of being a non-exempt, overtime-eligible employee more financially advantageous. Therefore, employers should perform an audit of their exempt classifications. A misclassification that leads to an employee missing out on this tax-advantaged income could heighten the risk of a lawsuit under the FLSA.

The new "No Tax on Overtime" rule is a complex addition to the wage and hour landscape. As

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ATTORNEY GREG LYONS RECOGNIZED AS A 2025 NOTABLE LITIGATOR AND TRIAL ATTORNEY BY BIZTIMES MILWAUKEE

O'Neil Cannon is pleased to announce that [Greg Lyons](#) has been selected for the *2025 Notable Litigators and Trial Attorneys* list by *BizTimes Milwaukee*. Chosen from nominations across the region, Lyons was recognized for his leadership, litigation experience, and commitment to serving the Milwaukee community.

The special section will appear in the print edition of *BizTimes Milwaukee* and online at [BizTimes.com](#). We congratulate Lyons on this well-earned honor and appreciate the impact he continues to make for our clients and our community.

O'NEIL CANNON WELCOMES ATTORNEY MAX STEPHENSON

O'Neil Cannon is pleased to welcome [Max Stephenson](#) to its Family Law practice group. Stephenson helps clients navigate the legal and emotional complexities of family transitions, including divorce, child custody, paternity, post-judgment modifications, guardianships, and injunctions. Known for his approachable style and practical, personalized strategies, he also brings deep experience in LGBTQ+ family law. His commitment to clients and the community is reflected in his leadership and volunteer work with organizations such as the American Cancer Society and the LGBT Chamber of Wisconsin.

O'Neil Cannon, founded in Milwaukee in 1973, is a full-service law firm dedicated to serving the wide-ranging needs of businesses and their owners. We represent corporations, institutions, partnerships, and closely held companies at every stage of the business life cycle, helping them start, grow, and transition from one generation to the next. In addition to our strong focus on business law and civil litigation, we assist business owners with their personal legal needs, including tax and estate planning and family law.

SUPER LAWYERS RECOGNIZES 28 O'NEIL CANNON ATTORNEYS

Each year, *Super Lawyers* surveys the State of Wisconsin's 15,000 attorneys and judges, seeking to recognize the State's top attorneys. Recently, *Super Lawyers* published its lists for 2025, which include the Top 10 Attorneys in Wisconsin, Top 50 Attorneys in Wisconsin, Top 25 Attorneys in Milwaukee, Super Lawyers (consisting of the top 5% of attorneys in Wisconsin), and Rising Stars (consisting of attorneys who are 40 years old or younger or who have been in practice for 10 years or less).

Super Lawyers, who previously referred to the firm as "the Milwaukee mid-sized powerhouse," recognized twenty-eight of our attorneys.

Those attorneys are the following:

- Dino Antonopoulos:
 - Super Lawyer
- Nick Chmurski:
 - Rising Star
- Doug Dehler:
 - Super Lawyer
- Jim DeJong:
 - Super Lawyer
- Seth Dizard:
 - Top 50 Attorneys in Wisconsin
 - Top 25 Attorneys in Milwaukee
 - Super Lawyer
- Maura Falk:
 - Rising Star
- Pete Faust:
 - Top 50 Attorneys in Wisconsin
 - Super Lawyer
- John Gehringer:
 - Super Lawyer
- Joseph Gumina:
 - Super Lawyer
- Jessica Haskell:
 - Rising Star
- Mike Kennedy:
 - Rising Star
- Grant Killoran:
 - Super Lawyer

- Top 50 Attorneys in Wisconsin
- Top 25 Attorneys in Milwaukee
- JB Koenings:
 - Super Lawyer
- Dean Laing:
 - Top 10 Attorneys in Wisconsin
 - Top 50 Attorneys in Wisconsin
 - Top 25 Attorneys in Milwaukee
 - Super Lawyer
- Trevor Lippman:
 - Rising Star
- Greg Lyons:
 - Super Lawyer
- Patrick McBride:
 - Super Lawyer
- Jason Meehan:
 - Rising Star
- Joe Newbold:
 - Super Lawyer
- Erica Reib:
 - Rising Star
- Chad Richter:
 - Super Lawyer
- Ryan Riebe:
 - Rising Star
- John Schreiber:
 - Super Lawyer
- Jason Scoby:
 - Super Lawyer
- Steve Slawinski:
 - Super Lawyer
- Kelly Spott:
 - Rising Star
- Christa Wittenberg:
 - Rising Star

Super Lawyers is a national rating service that rates attorneys in all 50 states. The selection process utilized by *Super Lawyers* is multi-phased and includes independent research, peer nominations, and peer evaluations. One court recently had this to say about *Super Lawyers*:

“[T]he selection procedures employed by [*Super Lawyers*] are very sophisticated, comprehensive, and complex. It is abundantly clear . . . that [*Super Lawyers* does] not permit a lawyer to buy one’s way onto the list, nor is there any requirement for the purchase of any product for inclusion in the lists or any quid pro quo of any kind or nature associated with the evaluation and listing of an attorney or in the subsequent advertising of one’s inclusion in the lists.”

We are proud to be one of the few firms in Wisconsin with more than 50% of its attorneys recognized by *Super Lawyers*.

O'NEIL CANNON WELCOMES ATTORNEY KAREN TIDWALL

O'Neil Cannon is pleased to announce that Karen Tidwall has joined the firm as a member of its Litigation Practice Group. A veteran litigator and trusted legal advisor with more than 30 years of experience, Tidwall represents businesses, individuals, fiduciaries, and government entities in complex civil matters. Her practice focuses on business and commercial disputes, fiduciary and probate controversies, and matters involving municipal law. Before joining O'Neil Cannon, Tidwall served as Deputy Corporation Counsel for Milwaukee County and spent nearly two decades as a partner in a national law firm.

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O'NEIL CANNON RANKED BY BEST LAW FIRMS® IN 2026

O'Neil Cannon has been recognized regionally in the 2026 edition of Best Law Firms®, ranked by *Best Lawyers*, in 18 practice areas, including a newly added category: Banking and Finance Law.

- Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law
- Banking and Finance Law
- Business Organizations (including LLCs and Partnerships)
- Commercial Litigation
- Construction Law
- Corporate Law
- Employment Law - Management

- Litigation – Bankruptcy
- Litigation – Health Care
- Litigation – Insurance
- Litigation – Labor and Employment
- Litigation – Real Estate
- Mergers and Acquisitions Law
- Personal Injury Litigation – Plaintiffs
- Product Liability Litigation – Defendants
- Real Estate Law
- Securities / Capital Markets Law
- Trusts and Estates Law

Firms included in the 2026 Best Law Firms® list are recognized for professional excellence based on ratings from clients and peers.

O'NEIL CANNON WELCOMES ATTORNEY BEN CROCKETT

O'Neil Cannon is pleased to announce that **Ben Crockett** has joined O'Neil Cannon's Business Law and Real Estate and Construction Practice Groups. Drawing on his experience as a municipal attorney, Crockett helps clients navigate complex regulatory frameworks with practical, solution-oriented advice. He has represented municipalities throughout Wisconsin as outside counsel, drafted zoning ordinances and development agreements, and advised local governments on permitting and real estate issues. Crockett is a member of the State Bar of Wisconsin, Milwaukee Bar Association, and Ozaukee County Bar Association. He also serves as Secretary of the Board for Hope Center WI. We are pleased to welcome Crockett to the firm.

O'Neil Cannon, founded in Milwaukee in 1973, is a full-service law firm that focuses on meeting the many needs of businesses and their owners. Our experienced attorneys work with businesses and their owners at all stages of the business life cycle, helping them start, grow, and transition their businesses. We also assist business owners with their personal legal needs, including tax and estate planning, and family law. For more information about the services we provide, please visit our [website](#).

18 O'NEIL CANNON LAWYERS SELECTED AS 2026 BEST LAWYERS; ANOTHER 5 NAMED BEST LAWYERS: ONES TO WATCH

We are pleased to announce 18 of our lawyers have been included in the 2026 Edition of *The Best Lawyers in America*, and an additional five have been selected as 2026 *Best Lawyers: Ones to Watch*.

The following are the O'Neil Cannon lawyers named to the 2026 lists:

Best Lawyers in America

- Doug Dehler - Litigation - Insurance
- Jim DeJong - Corporate Law, Mergers and Acquisitions Law, and Securities / Capital Markets Law
- Seth Dizard - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation - Bankruptcy
- Pete Faust - Corporate Law and Mergers and Acquisitions Law
- John Gehringer - Commercial Litigation, Construction Law, Corporate Law, and Real Estate Law
- Joseph Gumina - Employment Law - Management and Litigation - Labor and Employment
- Dennis Hollman - Corporate Law and Trusts and Estates
- Grant Killoran - Commercial Litigation and Litigation - Health Care
- JB Koenings - Corporate Law
- Kelly Kuglitsch - Employee Benefits (ERISA) Law and Employment Law - Management
- Dean Laing - Commercial Litigation, Personal Injury Litigation - Plaintiffs, and Product Liability Litigation - Defendants
- Greg Lyons - Commercial Litigation and Litigation - Insurance
- Patrick McBride - Commercial Litigation
- Joe Newbold - Commercial Litigation, Litigation - Real Estate, and Personal Injury Litigation - Plaintiffs
- Chad Richter - Business Organizations (including LLCs and Partnerships) and Corporate Law
- John Schreiber - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation - Bankruptcy
- Jason Scoby - Banking and Finance Law, Business Organizations (including LLCs and Partnerships), and Corporate Law
- Steve Slawinski - Construction Law

Best Lawyers: Ones to Watch

- Maura Falk - Trusts and Estates
- Trevor Lippman - Litigation - Trusts and Estates
- Kelly Spott - Trusts and Estate
- Christa Wittenberg - Commercial Litigation

About Best Lawyers

Best Lawyers has published its list for over three decades, earning the respect of the profession, the media, and the public as the most reliable, unbiased source of legal referrals.

Best Lawyers: Ones to Watch recognizes associates and other lawyers who are earlier in their careers for their outstanding professional excellence in private practice in the United States.

Lawyers on *The Best Lawyers in America* and *Best Lawyers: Ones to Watch* lists are divided by geographic region and practice areas. They are reviewed by their peers on the basis of professional expertise, and they undergo an authentication process to make sure they are in current practice and in good standing.

SETH DIZARD NAMED 2026 “LAWYER OF THE YEAR” FOR LITIGATION - BANKRUPTCY IN MILWAUKEE

O’Neil Cannon attorney [Seth Dizard](#) has been named the 2026 Best Lawyers® “Lawyer of the Year” for Litigation - Bankruptcy in Milwaukee. This honor is awarded to only one lawyer in each practice area and metropolitan region, based on exceptional peer-review ratings for professional excellence, integrity, and expertise. In addition to this distinction, Dizard is listed in the 2026 edition of *The Best Lawyers in America*® for Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law.

As head of the firm’s Banking, Receivership, and Creditors’ Rights Practice Group, Dizard regularly serves as a court-appointed receiver throughout Wisconsin and represents financial institutions, creditors, and distressed businesses in state and federal courts. Since joining the firm in 2007, he has managed and transitioned over \$200 million in assets, guided complex insolvency proceedings, and resolved high-value disputes. Recognized statewide for his skill in financial workouts, post-judgment collections, and trust administration, Dizard has earned numerous accolades, including the 2023 Judge Dale E. Ihlenfeldt Bankruptcy Award and repeated selections to Best Lawyers, Wisconsin Super Lawyers, “Top 50 Lawyers” in

Wisconsin, and "Top 25 Lawyers" in Milwaukee.