

Jerome G. Grzeca published an article, “*Work Visas for M&A*”, which appeared in the September 19, 2003, Editorial Section of ***The Business Journal***.

Work visas for M&A

In the Mergers & Acquisitions advertising supplement in The Business Journal’s September 5 issue, there was no recognition of the importance of the visa statuses of foreign national employees currently in the United States with the seller’s business.

Most temporary work visa statuses are valid only when the particular employee remains with the sponsoring employer. A change in employers pursuant to a merger, acquisition or spinoff could mean the instant expiration of visa status and unauthorized employment at the new entity.

Depending upon the number of employees affected, this could be a substantial violation of immigration law. It is virtually impossible to avoid this situation without due diligence and taking action prior to the final closing.

In order to avoid any unpleasant surprises, at a minimum buyers should request a review of all temporary visa statuses and any existing I-9 documentation, and all issues of visa obligations, liabilities and undertakings of the prior entity should be factored into any hold harmless agreement.