

**Congress of the United States**  
**Washington, DC 20515**

April 30, 2012

Mr. Alejandro Mayorkas  
Director  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

Dear Director Mayorkas:

Under your leadership, US Citizenship and Immigration Services (USCIS) has taken meaningful steps to expand protections for employees under the E-Verify program. However, in these trying economic times, additional reforms are urgently needed to prevent citizens and lawful immigrants from being unjustly barred from their jobs. Specifically, recognizing the significant impact of wrongful determinations on workers and their families, we write to urge you to establish an administrative review process that would enable individuals to contest erroneous Final Non-Confirmations (FNCs).

As you know, since 2008, use of E-Verify has dramatically expanded nationwide. Approximately 17.4 million people were processed in Fiscal Year 2011 and every week roughly 1,000 new employers enroll in the program. In addition, most federal contractors are now required to check the work-eligibility of new hires using E-Verify and, following the Supreme Court's *Whiting* decision earlier this term, more states are likely to mandate the use of E-Verify in the coming year.

However, despite the program's rapid growth, E-Verify remains seriously flawed. According to a 2009 Westat study and USCIS data, 0.5 percent of all Final Non-Confirmations are issued erroneously. While this error rate might appear insignificant, under current law, employers are required to dismiss any worker who receives an FNC. With 17 million E-Verify queries in FY 2011, this means that as many as 85,000 people may have lost their jobs in a struggling economy because of the program's deficiencies. Even more troublingly, in states where participation in E-Verify is mandatory, an erroneous FNC will likely serve as a total bar to obtaining employment.

Moreover, the program's defects have disproportionately affected minority communities. E-Verify error rates are thirty times higher for naturalized U.S. citizens and fifty times higher for legal non-immigrants than for native-born U.S. citizens. This means that foreign-born workers—who already face higher unemployment rates than the general population—are more likely to be locked out of jobs than their native counterparts.

In light of these disturbing figures, we believe a fair process should exist for authorized workers to effectively challenge wrongful work-eligibility determinations. Unfortunately,

as your agency has publicly acknowledged, USCIS currently lacks any official means for individuals to correct an inaccurate FNC.

Thankfully, on February 13<sup>th</sup>, your Verification Division and Office of Public Engagement held discussions with key stakeholders about how this shortcoming could be rectified. We strongly urge you to build on this important first step by moving swiftly to establish a transparent review process that would enable authorized individuals to overturn FNC's issued in error. Doing so is critical—particularly for low-income citizens unfairly harmed by E-Verify—and would address one of the program's most significant weaknesses. It would also reaffirm your commitment to upholding workers' rights and your agency's determination, as stated in its Core Values, to "always strive for the highest level of integrity."

Sincerely,

  
Lucille Roybal-Allard  
Member of Congress

  
Hansen Clarke  
Member of Congress

  
Joe Baca  
Member of Congress

  
Yvette Clarke  
Member of Congress

  
Sanford Bishop, Jr.  
Member of Congress

  
Gerald E. Connolly  
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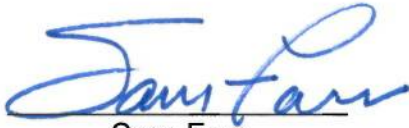
Janice Hahn  
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Lloyd Doggett  
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Rubén Hinojosa  
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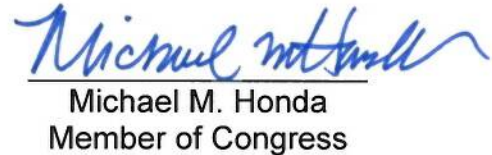
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Member of Congress



Mazie Hirono  
Member of Congress



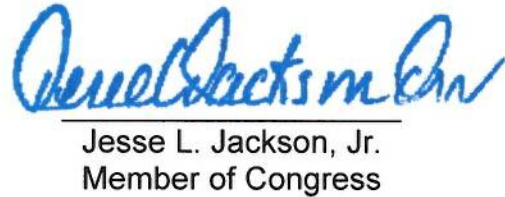
Bob Filner  
Member of Congress



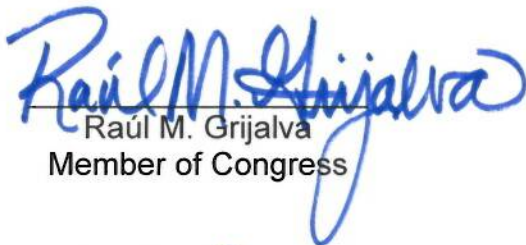
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