

Legal, Illegal, or Neither?

By J. Marcel Hernandez

In a recent Supreme Court opinion (*Mohawk Industries v. Carpenter*), Justice Sonia Sotomayor made headlines by employing the first use of the phrase “undocumented immigrant.” Previously, the Supreme Court has used the phrase “illegal immigrant.” At issue, was an obscure legal question on whether an order could be appealed immediately or must await a judgment on the case. Possibly of greater magnitude, however, was Justice Sotomayor’s conscious use of the phrase “undocumented immigrant.”

I often hear people use the word “illegal” or “illegals” as a noun(s) in conversation. Yet, as I write this, MS-Word places a red line under “illegals” and a quick thesaurus search for “illegal” yields only adjectives. I used to allow myself to be annoyed by such uses, but experience has taught me some people simply do not know any better.

The term, at times followed by “immigrant” or “alien” appears to dehumanize an individual, regardless of what one’s political beliefs are on the subject of immigration. Whether it actually does or not is up to you to decide. Some would argue, “Being politically correct is half the reason we have the problems we do today.” However, I would contend it is our human nature to want to speak our minds – when, where, and how we want. It is more challenging for us to be conscious of our word choice. Most can agree challenges build character – and most of us like to think we possess good character. Thus, why would we consciously choose to potentially offend someone when we have the same choice to do the opposite?

Taking this mentality further, employers are subject to the same, if not stricter guidelines when it comes to word choice. Rephrasing the question in the previous paragraph: why, as employers, would we consciously choose to open ourselves up to potential legal issues? The obvious answer is, “We wouldn’t.”

Perhaps my bias is obvious, after having read my surname. I remember while in middle school, walking to the airport terminal with my parents, a plain-clothes officer walked up to us and told my father, “I need to see your papers.” My father said “Sir, I need to see YOUR identification.” Frustrated, the man showed his badge, just as we smiled, presented our IDs, and went about our business. Looking back, there was a potential for legal issues, but my father knew not to choose that battle.

Many are encouraged by Justice Sotomayor’s use of “undocumented immigrant,” because of the conscious effort to avoid potentially offensive language. I do not expect to change a person’s core beliefs with this article – I simply hope to (1) provide edification, and (2) shed some light on an issue of potential liability. You are the ultimate decider in how you’d like to proceed.