

MICHIGAN EXTENDS RETALIATION PROTECTIONS TO INCLUDE COVID-19 EMPLOYEES

By: Kathleen J. Collins, Esq.

On April 3, 2020, [Governor Gretchen Whitmer](#), issued an [Executive Order 2020-04](#) for the [State of Michigan](#), barring employers from disciplining, discharging or otherwise retaliating against an employee for staying home from work if the employee [tests positive for COVID-19](#). Retaliation against an employee is also prohibited if they display [principal symptoms](#) of COVID-19. The order is effective immediately and continues through the end of Michigan's state of emergency.

Employers are specifically prohibited from discharging, disciplining or otherwise retaliating against an employee for failing to comply with a requirement to document that the employee or the individual with whom the employee has had close contact has one or more of the principal symptoms of COVID-19. However, employers are permitted to discharge or discipline an employee:

- who is allowed to return to work under the provisions described above but refuses;
- with the employee's consent;
- for any other lawful reason.

Employers are prohibited from retaliation an employee action against an employee for staying at home or place of residence for reasons related to the coronavirus, as described above. Further, employers must treat such an employee as if the employee were taking leave under [Michigan's Paid Medical Leave Act](#).

If an employee has no available paid leave, the employee's leave may be unpaid. Though, the length of an employee's leave is not limited by the amount of their accrued leave under the [Paid Medical Leave Act](#), and the leave must extend. This applies whether the leave is paid or unpaid, so long as the employee remains out from work for the reasons previously discussed. Employers are permitted to debit any hours taken by the employee against the employee's accrued leave.

While the order specifically outlines it does not create a [private right of action](#) against employers, additional language within the order creates the possibility of a wrongful termination claim.

To learn more about retaliation protections in your state, please contact Litchfield Cavo's COVID-19 Resource Team lead, [Kathleen Collins](#).

To speak a Michigan licensed attorney who can assist with questions regarding your matter please contact [Joseph P. Sullivan](#) or [Anthony J. Calati](#), or visit [LitchfieldCavo.com/COVID-19](#).

Litchfield Cavo operates out of 22 offices, serving clients in more than 35 states nationwide.

AZ – Phoenix | **CA** – Los Angeles area | **CT** – Hartford area | **FL** – Ft. Lauderdale | **FL** – Tampa
GA – Atlanta | **IL** – Chicago | **IN** – Highland | **LA** – New Orleans area | **MA** – Boston area | **MO** – St. Louis
NJ – Cherry Hill | **NV** – Las Vegas | **NY** – New York | **PA** – Philadelphia | **PA** – Pittsburgh | **RI** – Providence
TX – Dallas-Ft. Worth | **TX** – Houston | **UT** – Salt Lake City | **WI** – Milwaukee | **WV** – Barboursville