

Client Alert: Does the OSH Act Give an Employee the Right to Refuse to Work Due to Fear of Workplace COVID 19 Exposure?

Publications

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Responding to COVID 19, many state and local governments are issuing orders encouraging or requiring workers to stay at home (Stay-At-Home Order) unless their employment is deemed to be in an “essential business” or “critical infrastructure industry.” Whether working in an essential business or where no Stay-At-Home Order has been issued, employees may express concerns about, or refuse, coming to work due to fear of contracting COVID 19 at work. The federal Occupational Safety and Health Act (OSH Act or the Act) prohibits an employer from retaliating against an employee for exercising rights under the Act. If an employer fires or takes other action against an employee who walks off the job due to COVID 19 fears, is the employee exercising a right under the Act, such that the employer could face a government lawsuit for retaliating against the employee? Although this discussion is limited to refusal to work rights and responsibilities under the OSH Act, as with many issues raised by the novel coronavirus, the answer will be fact-specific and may be unique to this public health crisis. After analyzing the applicable law below, we provide practical suggestions for how employers and their counsel can analyze the issue if raised at their workplace.

To read the full article, please [click here](#).

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