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Employee Rights: Reporting Health and Safety Issues in the Workplace

During the course of employment, employees sometimes become aware of health and safety issues that pose hazards to other employees. Although employees often fear that they will face retaliation for reporting such issues, several federal laws provide protection for employees who report safety issues to their employer or government agencies.

Under Section 11(c) of the Occupational Health and Safety Act of 1970 (the “OSH Act”), employees are protected against retaliation from their employers for making complaints about any matter involving health and safety. Complaining about matters related to health and safety is protected activity under the OSH Act regardless of whether the complaint is made to the employer directly, to the Occupational Safety and Health Administration (“OSHA”), or to another government agency. Furthermore, an employee who provides testimony to OSHA or another government agency regarding matters of health and safety is also protected from retaliation from his/her employer. Complaints under Section 11(c) of the OSH Act must be filed no later than 30 days after the retaliation occurred.

Furthermore, under the Surface Transportation Assistance Act (“STAA”), employees are protected from retaliation for making complaints about violations of commercial motor vehicle safety regulations or providing testimony about such violations. Additionally, the STAA protects employees against retaliation for refusing to operate a vehicle in violation of commercial motor vehicle safety regulations or refusing to operate a vehicle based upon a reasonable fear of injury to the employee or the public because of a vehicles hazardous condition. Complaints under the STAA must be filed no later than 180 days after the retaliation occurred.

Finally, it should be noted that the National Labor Relations Act (“NLRA”) also provides protection for any concerted activity involving terms and conditions of employment—including matters involving health and safety. As such, it is a best practice for two or more employees jointly report health and safety violations to their employer. When health and safety issues are complained about jointly to an employer, such complaints are also protected under the NLRA. An unfair labor practice charge under the NLRA must be filed no later than 180 days after the retaliation occurred. Given the short statute of limitations that applies to complaints under



Section 11(c) of the OSH Act, characterizing a complaint about health and safety as concerted activity can allow an employee to pursue recourse for retaliation for health and safety reports even after the statute of limitations under Section 11(c) of the OSH Act has expired.

In the event an employee is terminated or otherwise retaliated against after making a complaint, or providing testimony, regarding matters of health and safety, he/she should file a Section 11(c) retaliation complaint with OSHA, as well as an unfair labor practice charge with the NLRB as soon as possible. Furthermore, if the safety complaint pertains to a violation of commercial motor vehicle regulations, a complaint should also be filed under the STAA. The OSH Act, STAA, and NLRA all allow employees to obtain a variety of relief in the event of retaliation—including but not limited to reinstatement and backpay. Employees who believe that they have been retaliated against for reporting health and safety issues in the workplace should consult with legal counsel for specific advice regarding their individual situation.

Respectfully submitted,

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