



Issue 2, 2020

● The Editors' Note

Welcome to this edition of *SuperVision*, the e-newsletter for Spilman Thomas & Battle's Labor & Employment Law Group. 2020 continues to bring unforeseen challenges, but employers are beginning to get back to work at full strength. Meanwhile, the CDC dropped their recommendation that employees who travel overseas or even out-of-state should quarantine for 14 days. The CDC's new recommendation is that travelers simply follow state and local recommendations or requirements for what they should do following travel. Please note that many states, including Pennsylvania, Ohio and Kentucky, have adopted quarantine recommendations or requirements that -- as of the date we published -- remain in effect but could be revised in the near future as a result of the CDC guidance. Please contact any member of our [COVID-19 Task Force](#) for the latest.

Additionally, the EEOC has announced that it will resume dismissing fully investigated charges, a practice the Commission stopped in the spring. The EEOC intends to issue the backlog of Notices of Rights to Sue with the goal of completing work on the suspended Notices by the end of the EEOC's fiscal year on September 30, 2020. Of course, those Notices could lead to lawsuits.

In this edition of *SuperVision*, Carrie Grundmann reviews Virginia's first-in-the-nation guidance on COVID-19 workplace rules, which could be coming to other jurisdictions in the near future; Megan Mullins explores new National Labor Relations Board guidance on improper conduct in negotiations; Sarah Kowalkowski addresses questions and answers about remote learning and FFCRA paid leave; and we return with a summary of a recent decision out of the Southern District of New York invalidating parts of the emergency rule implementing the Families First Coronavirus Relief Act (i.e., the law that provides for mandatory paid leave for COVID-19-related reasons with small employers).

As always, thank you for reading.

[Eric W. Iskra](#), Chair, Labor & Employment Practice Group
[Eric E. Kinder](#), Executive Editor, *SuperVision*

● All Virginia Employers Subject to New COVID-19 Workplace Safety Standard

By [Carrie H. Grundmann](#)

All Virginia employers subject to the jurisdiction of the Virginia Occupational Safety and Health Program (i.e., practically all employers in Virginia) must comply with new workplace safety standards related to COVID-19. Known as the Emergency Temporary Standard, the new regulation requires several things from employers.

Click [here](#) to read the entire article.

● **Where Does the NLRA Draw the Line Between Harassment and Protected Activity?**

By Megan W. Mullins

As most employers have discovered, Section 7 of the National Labor Relations Act protects employees who engage in "concerted activities for the purpose of collective bargaining," and it is unlawful for employers to interfere with, restrain, or coerce employees in the exercise of their rights. But how far does the Act go in protecting actions of employees that may also be viewed as discriminatory or harassing?

Click [here](#) to read the entire article.

● **Remote Learning and FFCRA Paid Leave Questions Answered by Department of Labor**

By Sarah E. Kowalkowski

The Department of Labor has updated its list of FAQs about the Families First Coronavirus Response Act to address when employees would be eligible for Emergency FMLA leave when the employee's child's school is operating on a remote or hybrid learning schedule. We discuss the details of FAQs 98-100.

Click [here](#) to read the entire article.

● **Federal Court in New York Takes Issue with Some Sections of the Rule Implementing the FFCRA: What Does It Mean for You?**

By Eric E. Kinder

In response to a lawsuit filed by the State of New York, a judge in the Southern District of New York considered and invalidated parts of the Department of Labor's Final Rule implementing the Families First Coronavirus Relief Act. The ruling, while currently only applying to employers in the Southern District of New York (i.e., New York City), could be instructive on how other courts consider the same provisions.

Click [here](#) to read the entire article.

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