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Use Your Noodle: Assistant Manager Sues Over COVID-19 Related Termination

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The Barnes & Thornburg LLP Wage & Hour Practice Group's [COVID-19 related workplace litigation tracker](#) is now in its 19th week, and our team has analyzed 335 complaints filed across the country in twelve different categories. This week's spotlight is on a category of COVID-19 related workplace complaints that will almost certainly become prevalent as employers deal with the unfolding pandemic: employees testing positive for COVID-19. The allegations in these cases demonstrate the importance of employers properly training supervisors and employees to deal with employees who contract COVID-19.

The plaintiff in *Prada v. Trifecta Productions, LLC (d/b/a Tomkun Noodle Bar)* was the assistant manager of a noodle bar on the University of Michigan campus, and alleges he was "unceremoniously fired" after he contracted COVID-19 and was ordered to self-quarantine by the county health department. According to the plaintiff, he advised his employer of the order to self-quarantine, and claims he was "interrogated" by his supervisor. The complaint claims his supervisor asked him how he contracted the virus, asked "whether he had been out partying and acting irresponsible," and told him that there was evidence on social media that the plaintiff had been out in a crowd. The supervisor then allegedly told the plaintiff that "for PR reasons it would be best for you not to come back to work," and told him to "to apply for unemployment and to 'begin looking for other work,'" after which he was

terminated. The plaintiff brings claims for interference and retaliation in violation of his rights under the Families First Coronavirus Relief Act (FFCRA), and wrongful termination in violation of public policy.

The plaintiff also brings an unrelated claim under the Fair Labor Standards Act (FLSA) for improper tip crediting and misappropriation of service charges. The tracker contains [a number of similar cases](#), pairing COVID-19 allegations with unrelated traditional federal or state law [wage and hour violations](#), both on an individual basis (as in *Prada*) and [on a class or collective basis](#).

As the COVID-19 pandemic continues, unfortunately, employers can and should expect to see employees become infected, and will need to handle these situations with care. Employers can prepare by being sure to understand and follow the public health guidance coming out at the local, state, and federal levels, and by ensuring they are in compliance with applicable employment law and regulations. When in doubt, seek guidance from your labor and employment attorney. We will continue to track these trends as they unfold, and will continue to update the tracker each week. As always, stay tuned.