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Plaintiff Alleges Wrongful Termination While Hospitalized For COVID-19

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Now in its 28th week, the Barnes & Thornburg [Wage and Hour](#) Practice Group's [COVID-19 related workplace litigation tracker](#) summarizes 578 complaints filed across the United States in 12 different categories. This week's spotlight is on a case representing two trends that have become familiar in COVID-19 related workplace complaints: plaintiffs alleging a wrongful termination connected to COVID-19, and pairing unrelated wage and hour allegations with COVID-19 claims.

In *Rendon v. South Dade Chamber of Commerce, Inc.*, the plaintiff alleges she was wrongfully terminated while she was hospitalized for COVID-19, and also alleges wage and hour violations in connection with unpaid overtime.

The complaint states that the plaintiff contracted COVID-19 and was also diagnosed with multifocal pneumonia. According to the plaintiff, she became critically ill and was hospitalized, and was intubated from March 23 until April 6. She was discharged from the hospital on April 13 to continue her recovery at home. The plaintiff alleges that while she was hospitalized, she and her family kept her employer updated on her condition. However, according to the complaint, the defendant terminated the plaintiff's employment "on or about March 27, 2020 while she was intubated and critically ill." In response, the plaintiff brought suit under the EPSLA and the FFCRA.

Unrelated to the COVID-19 claims, the plaintiff also sued the defendant under the FLSA for allegedly failing to pay her for overtime hours which she

allegedly worked. Also unrelated to her COVID-19 claims, the plaintiff alleges that she regularly worked more than 40 hours per week, including participating in “numerous events organized by” her employer, but that she was not paid overtime for all such hours.

As the COVID-19 pandemic continues, the sad reality is that employers will continue facing employees who contract COVID-19 and become ill. Moreover, we predict that plaintiffs will continue to bring [wage and hour claims alongside COVID-19 allegations](#), increasing the financial exposure for employers.

Employers would do well to review their compensation and timekeeping policies, as well as their policies and practices for employee sick leave, to be sure they are in compliance. 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.