



All Workers Are Protected!

How to Know if You Experienced Workplace Retaliation



- 4 Required Elements to Establish Retaliation
- 1

Protected Activity
- 2

Employer Knowledge
- 3

Adverse Action
- 4

Causal Relationship

1Protected Activity	2Employer Knowledge	3Adverse Action	4Causal Relationship	Legitimate Non-Retaliatory Reason
<p>The first thing to establish is that the worker engaged in protected activity, meaning the worker exercised a right provided by law (e.g., asking for unpaid wages, taking a meal/rest period, etc.).</p> <p>IMPORTANT QUESTIONS</p> <p>WHO engaged in the protected activity?</p> <p>WHAT specific protected activity was involved?</p> <p>WHERE did the protected activity take place?</p> <p>WHEN did the protected activity occur? When was concern raised?</p> <p>WHY did the worker engage in this activity? What prompted it? Why did the worker believe their concern was a protected activity?</p> <p>HOW was concern raised? (Email, in-person, text message)</p>	<p>The employer MUST have knowledge directly or through a representative of the employer of the worker’s protected activity.</p> <p>IMPORTANT QUESTIONS</p> <p>WHO knew about the protected activity?</p> <p>WHAT evidence exists that someone was aware of the protected activity?</p> <p>CAN you find the evidence? (employee or employer possession, email, someone’s phone)</p> <p>WHEN did employer become aware of the protected activity?</p> <p>WHY would they be aware of the protected activity? (Is it their responsibility to know that information?)</p> <p>HOW did the employer become aware of the protected activity?</p> <p>IMMIGRATION THREAT Did the employer know the immigration status of the worker or assume their status or that of their family member? Were any comments made about the worker or their family member’s immigration status or documents?</p>	<p>The employer or management MUST have taken a negative action after the worker engaged in protected activity.</p> <p>IMPORTANT QUESTIONS</p> <p>WHO made the decision to take the adverse action? (name and job title)</p> <p>WHAT was the adverse action(s) taken?</p> <p>WHERE did the adverse action occur? (Office building, private office, in-person meeting, in a virtual meeting or phone conversation)</p> <p>WHEN did the adverse action(s) take place?</p> <p>HOW was the adverse action communicated? (Phone call, email, text, letter, in-person or virtual meeting)</p> <p>IMMIGRATION THREAT Did the employer threaten to contact or actually contact immigration authorities? Did the employer request or verify immigration documents at a time or in a way not required?</p>	<p>There MUST be a connection between the protected activity and the adverse action.</p> <p>IMPORTANT QUESTIONS</p> <p>WHO knew about the protected activity? Who took the adverse action?</p> <p>WHAT reasons would the employer give to justify the adverse action?</p> <p>WHEN did the adverse action occur?</p> <p>HOW much time has passed between the protected activities and the adverse actions?</p> <div></div>	<p>The employer may provide a genuine reason for the negative action taken against the worker.</p> <p>IMPORTANT QUESTIONS</p> <p>WHO was told the reason for the negative action? Was the worker told?</p> <p>WHEN was the reason for the negative action provided?</p> <p>WHY is it false or untrue? How does the worker know?</p> <div></div>

Contact & Resources

File a Retaliation

wagetheftisacrime.com/File-Retaliation-Complaint.html

Filing a Claim from Outside California

You can still file a claim even if you leave California or the U.S.

For international calls, enter the calling code from the country you are calling from plus the US code (1) and the LCO number (833-526-4636), e.g., from Mexico, dial 00 + 1 + 833-526-4636.

Contact the Labor Commissioner’s Office for help over the phone or online.

Immigration Legal Resources

Immigrationadvocates.org/legaldirectory/

Labor Commissioner’s Call Center

833-526-4636

Wage Theft is a

CRIME

If you are able to establish these elements, that’s workplace retaliation.

Contact the Labor Commissioner to learn your rights.