



# EMPLOYER'S RESPONSE TO PAID FAMILY LEAVE DISCRIMINATION / RETALIATION COMPLAINT

Paid Family Leave • PO Box 9030, Endicott, NY 13761-9030

When an employee has alleged a violation of Workers' Compensation Law Section 203-b or 120 (see reverse for the applicable law), a preliminary hearing will be scheduled before a Workers' Compensation Law Judge at the hearing point nearest the employee's home address. At that time, all parties will have an opportunity to be heard. You will receive a notice providing the date, place and time for the hearing.

WITHIN 30 DAYS OF RECEIVING A *NOTICE OF PAID FAMILY LEAVE DISCRIMINATION/RETALIATION COMPLAINT* (Form PFL-DC-129) FROM THE BOARD, EMPLOYERS MUST COMPLETE AND SUBMIT THIS FORM TO THE BOARD OR RISK WAIVER OF YOUR DEFENSES. MAIL THIS FORM TO PAID FAMILY LEAVE, PO BOX 9030, ENDICOTT, NY 13761-9030.

THE EMPLOYER ALONE IS LIABLE FOR ANY PENALTIES AND PAYMENTS ORDERED.

In accordance with Section 111 of the Workers' Compensation Law (quoted on the reverse), enter all information

**Employee's Information (This information can be found on the *Notice of Paid Family Leave Discrimination/Retaliation Complaint, Form PFL-DC-129, sent to you by the Workers' Compensation Board.*)**

Employee Name: \_\_\_\_\_ PFL Case Number: \_\_\_\_\_

**Employer's Information**

Full and Correct Legal Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ Federal Identification Number (FEIN): \_\_\_\_\_

Is this business owned by an individual owner, partnership or corporation (check one):

- Individual owner (Enter name and address of owner below)
- Partnership (Enter name and address of each partner below)
- Corporation (Enter name, title and address(es) below of president and/or other corporate officer(s) who should receive notice regarding this matter)

Name (LAST, FIRST, MI): \_\_\_\_\_

Title (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

Name (LAST, FIRST, MI): \_\_\_\_\_

Title (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

Name (LAST, FIRST, MI): \_\_\_\_\_

Title (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

Name (LAST, FIRST, MI): \_\_\_\_\_

Title (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

Indicate your defenses below by checking the applicable reason(s). You may also attach additional documentation to this form in support of your defenses.

- The action(s) outlined in the employee's discrimination/retaliation complaint was/were taken for a valid business reason. Reason(s) is/are as follows:

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- The shift the employee held prior to requesting or taking Paid Family Leave was eliminated.
- The overtime hours the employee worked prior to requesting or taking Paid Family leave are no longer available.
- The employee never requested or took Paid Family Leave.
- The employee/claimant was not employed by this business.
- Other (PLEASE EXPLAIN):

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**I affirm under the penalty of perjury that the information provided herein is true to the best of my knowledge.**

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Employer's Signature

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Date

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Print Name

**WORKERS' COMPENSATION LAW**

Sec. 120. Discrimination against employees. It shall be unlawful for any employer or his or her duly authorized agent to discharge or fail to reinstate pursuant to section two hundred three-b of this chapter, or in any other manner discriminate against an employee as to his or her employment because such employee has claimed or attempted to claim compensation from such employer, or claimed or attempted to claim any benefits provided under this chapter or because he or she has testified or is about to testify in a proceeding under this chapter and no other valid reason is shown to exist for such action by the employer.

Any complaint alleging such an unlawful discriminatory practice must be filed within two years of the commission of such practice. Upon finding that an employer has violated this section, the board shall make an order that any employee so discriminated against shall be restored to employment or otherwise restored to the position or privileges he or she would have had but for the discrimination and shall be compensated by his or her employer for any loss of compensation arising out of such discrimination together with such fees or allowances for services rendered by an attorney or licensed representative as fixed by the board. Any employer who violates this section shall be liable to a penalty of not less than one hundred dollars or more than five hundred dollars, as may be determined by the board. All such penalties shall be paid into the state treasury. All penalties, compensation and fees or allowances shall be paid solely by the employer. The employer alone and not his or her carrier shall be liable for such penalties and payments. Any provision in an insurance policy undertaking to relieve the employer from liability for such penalties and payments shall be void.

An employer found to be in violation of this section and the aggrieved employee must report to the board as to the manner of the employer's compliance within thirty days of receipt of a final determination. In case of failure to report on compliance, or failure to comply with an order or penalty of the board within thirty days after the order or notice of penalty is served, except where timely application to the board for a modification, rescission or review of such order or penalty has been filed under section twenty-three of this chapter, the chair in any such case or, on the chair's consent, any party may enforce the order or penalty in a like manner as an award of compensation.

Sec. 203-b. Reinstatement following family leave. Any eligible employee of a covered employer who takes leave under this article shall be entitled, on return from such leave, to be restored by the employer to the position of employment held by the employee when the leave commenced, or to be restored to a comparable position with comparable employment benefits, pay and other terms and conditions of employment. The taking of family leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. Nothing in this section shall be construed to entitle any restored employee to the accrual of any seniority or employment benefits during any period of leave, or any right, benefit or position to which the employee would have been entitled had the employee not taken the leave.

Sec. 241. Application of other provisions of chapter. All the powers and duties conferred or imposed upon the chairman and board by this chapter that are necessary for the administration of this article and not inconsistent are, to that extent, hereby made applicable to this article; and none of the other provisions of this chapter pertaining to benefits provided by other articles of this chapter shall be construed to be applicable to this article. The provisions of section one hundred twenty of this chapter shall be applicable as fully as if set forth in this article, except that penalties paid into the state treasury pursuant thereto under this article shall be applied toward the expenses of administering this article.

Sec. 111. Information to be furnished by employer. Every employer shall furnish the chairman, upon request, any information required by him to carry out the provisions of this chapter. The chairman or board may examine under oath any employer, officer, agent or employee. An employer or an employee receiving from the chairman a blank with directions to file the same shall cause the same to be properly filled out so as to answer fully and correctly all questions therein, or if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be subscribed by the employer or the employee and affirmed as true under the penalties of perjury and returned to the chairman within the period fixed by the chairman therefor.