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Michigan Supreme Court Expands Retaliation Liability Under Michigan's Civil Rights Act

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The Michigan Supreme Court's recent ruling in the case of *Miller v. Department of Corrections* expands the scope of retaliation claims under the Elliott-Larsen Civil Rights Act (ELCRA). This decision could have important implications for employers regarding disciplinary actions.

The case originated from a dispute involving the Michigan Department of Corrections (MDOC) and two of its employees, Lisa and Cedric Griffey. Lisa Griffey filed a formal harassment complaint alleging she was subjected to a racially hostile work environment. Following her complaint, her husband, Cedric Griffey, became the subject of several internal MDOC investigations. Subsequently, Richard Miller and Brent Whitman, also MDOC employees and friends of Cedric Griffey, were discharged and claimed their terminations were retaliatory because of their association with the Griffeyes.

Key Holdings:

- The court held that ELCRA supports claims of retaliation not only against the individual who reports unlawful conduct *but also* against other employees who have a close relationship with the reporting individual.
- This ruling clarifies that retaliation protections extend to "associational" claims, meaning that adverse actions taken against an employee due to their association with someone who has opposed a violation of ELCRA are prohibited.
- The court emphasized that employment decisions must be free of retaliation not only towards those who report unlawful conduct but also towards those associated with the reporting employee.

Implications for Employers:

Given this expanded liability, it is crucial for employers to ensure that all employees who report perceived unlawful conduct—and those associated with them—are treated fairly, without regard to their own protected characteristic/protected actions or the protected

characteristic/protected actions of those with whom they are associated. When making employment decisions such as firing, demoting, or conducting performance evaluations, it is essential to consider this broadened protection to avoid potential legal repercussions.

Action Steps:

1. Review and update your company's anti-retaliation policies to incorporate the broader scope of protection based on associations.
2. Train your management and HR teams to recognize and prevent retaliatory actions against all employees, including those associated with reporting employees.
3. Ensure thorough documentation of the legitimate, non-discriminatory reasons behind employment decisions to safeguard against potential retaliation claims.

Please contact the author or any member of Bodman's [Workplace Law Group](#) if you have questions regarding any of the information above. Bodman cannot respond to your questions or receive information from you without establishing an attorney-client relationship and clearing potential conflicts with other clients. Thank you for your patience and understanding.

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