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### Employment Considerations in Illinois' Anticipated Extended Stay at Home Order

Illinois' extended Stay at Home Order, expected to be signed by Governor Pritzker today, contains important provisions for employers, including retailers and businesses maintaining permitted operations in their physical workplaces.

The Order, expected to go into effect on May 1 and to continue through May 30, will ease some restrictions on retail stores, allowing such businesses to increase minimum basic operations to fulfill customer orders through pick-up and delivery. In addition, groomers, garden centers and nurseries may open their doors to customers.

However, all employers operating in *physical workplaces* under the Order will be required to follow the following precautions vis-à-vis their employees:

- *All employers*, whether designated as essential or maintaining minimum basic operations, must require employees to follow social distancing requirements and must require employees to wear face coverings whenever they may come within six feet of one another or with customers.
- In addition to the above requirements, *manufacturers* must take other precautions such as staggering shifts, reducing line speeds, shutting down non-essential lines, ensuring that spaces

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where employees gather (such as locker rooms and lunch rooms) allow for social distancing, and otherwise downsize operations to allow for social distancing and to provide a safe workspace.

- *Retail stores*, including grocery stores, hardware stores, greenhouses and garden centers, must provide face coverings to employees who, at any time, may be unable to maintain six feet of distance with one another or with customers, which likely means most if not all employees.

All businesses must evaluate which employees may be able to work from home, and are encouraged to facilitate remote work arrangements when possible.

The Order also contains an anti-retaliation provision linked to the Illinois Whistleblower Act (IWA), stating that businesses may not retaliate against employees for disclosing information based on reasonable belief such information discloses a violation of the Order. Importantly, to state an IWA claim, an employee need not be right that a violation actually occurred – a reasonable belief will do to state an actionable claim. The IWA provides for a private right of action, with potential damages including reinstatement, back pay and attorneys' fees.

If you have any questions regarding Illinois' extended stay at home order or other labor and employment issues, please do not hesitate to contact Sonya Rosenberg or your Neal Gerber Eisenberg attorney.

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