

Michigan Employers Kept in Dark Until February 2023 Regarding Paid Sick Leave, Increased Minimum Wages

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You may have heard that on July 19, 2022, Michigan Court of Claims Judge Douglas Shapiro, issued an opinion in *Mothering Justice, et al v Dana Nessel and the State of Michigan*, which if upheld on appeal, will upend Michigan's Paid Medical Leave Act (PMLA) as well as Michigan's Wage and Hour laws regarding minimum wages and tipped wages.

The case was filed to challenge the method used by the Legislature to enact 2018 PA 368 and 2018 PA 369, as unconstitutional. Both of those laws began as voter-initiated laws heading for a vote on the November 2018 ballot. Rather than allowing the proposals to go on the ballot, which if passed requires a three-fourths majority in the Legislature to amend them, the Legislature legally enacted the laws without change as 2018 PA's 337 and 338.

After the 2018 elections, in the same legislative session in which PA's 337 and 338 were enacted, the Legislature significantly amended those laws by enacting 2018 PA 368 and 2018 PA 369. Judge Douglas Shapiro of the State of Michigan Court of Claims held that the "adopt and amend tactic" violated Article 2, § 9 of the Michigan Constitution.

Since the amendments adopted by the Legislature significantly changed the laws, there has been some confusion among employers as to what effect this will have from a practical standpoint. State officials announced they will not be enforcing 2018 PA's 337 and 338 until the appeals are decided.

Judge Shapiro has issued an order staying the effect of his decision until at least February 19, 2023, and that could be further extended by Michigan's appellate courts.

If the decision is upheld on appeal, employers will need to update their PMLA policies, and many more employers will need to adopt a PMLA policy, as well as adjust wages including tipped wages.

MICHIGAN EMPLOYERS KEPT IN DARK UNTIL FEBRUARY 2023 REGARDING PAID SICK LEAVE,
INCREASED MINIMUM WAGES Cont.

The members of Plunkett Cooney's Labor & Employment Law Practice Group are following these cases closely and will continue to update you as information becomes available.