

Links

- <https://www.bswllp.com/covid19-preparedness-resource-center>
- <https://www.bswllp.com/covid19-frequently-asked-questions-for-you-and-your-business>

Overall Labor and Employment

- Reaching for creative resolutions to questions
- No cookie-cutter answer
- No one is doing the same things
- New and changing every day
- Consider Contracts
 - Contracts with customers, vendors, guests
 - Employment-executive agreement
 - Collective bargaining agreement – unions
 - Does that include Cooperative Endeavor Agreements?
 - Force Majeure
 - Review your contract for the specifics- “Act of God” rule
 - Most do not cover disease
 - But most hotels want to make nice – will not bring this to litigation
 - Artful language
- Preventive maintenance
 - Communicate with staff/Educate workforce (cleaning, tell them to notify of positive tests/symptoms)
 - Telecommuting policies

Legal employment issues for consideration

Torte/casualty

- Reduction in the workforce
- Decrease of hours (furlough)
- Not coming to work because of anxiety/fear of disease
- With no diagnosis, do we have obligation to tell all employees if someone has shown symptoms?
- Employee diagnosis = must share with employees (doctors covered by HIPPA)
- Business interruption insurance – COVID-19 claims likely won't be covered by this; if so, will be extremely limited on duration, specifics, etc.

Workers Compensation

- If employee contracts disease at work, can they claim WC?
- What is the burden of proof? Really hard to prove
- OSHA – safety and health, required to have employees
- Post CDC/WHO tips
- Clean workplace 1-2 times per day, encourage handwashing
- Good reference www.osha.gov/publications/OSHA3990.pdf

Federal wage and hour law

- Thinking about furlough (reducing hours) – consider salaried exempt employees

ADA (American Disabilities Act)

- Employers ask if they need to take employees temperatures? Not suggested.

GINA

- genetics information non-discrimination act
- (not applicable)

FMLA

- 50+ employee offices applicable
- (considered serious health condition)

Families First Coronavirus Response ACT

- <https://www.bswllp.com/family-first-coronavirus-response-act-summaryemployer-provisions>
- Required businesses to pay sick leave nationally
 - Emergency paid sick leave
 - Temporary
 - Not retroactive – goes into effect April 2-Dec. 31
 - Apply to businesses with less than 500 employees
 - 2 weeks paid leave if 1) diagnosed with disease; 2) employees caring for dependents with disease; 3) fathers/mothers staying home with kids out of school
 - Diagnosed with disease CAP- \$511 per week or \$5,110 for entire period.
 - Employees caring for other CAP- \$200 per day or \$2000 for entire period.
 - Fathers and Mothers' stay a home CAP- \$200 per day or \$200 for entire period.
 - Is this triggered by governor's stay at home order? (no explanation yet from Dept of Labor) (don't expect it to)
 - FMLA – amended
 - Applies to all
 - 12 weeks for all 3 reasons
 - 2/3 of normal pay
 - Cap is \$10,000
 - Doesn't matter if both parents are staying home
 - Employer Protections
 - Employers of 50 or less if they can show it would jeopardize their business would receive tax credits.
 - The Employer would get 100% of the tax credits equal to the qualified employees on leave.

Q&A

Can hotels ask guests to leave if they want to close?

- Current debate among attorneys
- Fred believes we can
- Hotels have entered into contracts to house healthcare workers (getting hold-harmless from state to protect from being sued)

- With notice – eviction
- But before you do, talk to your own legal council (long term tenants)

What if sick guests visit attraction?

- If someone has symptoms, opt for the safest thing
- Ask them not to participate
- Take the high road – pull them aside, ask them

Employee who came to work with fever

- What can you say to them?
- What notice is required?
- Safety first – ask employee to see physician
- Don't take chance
- One of our employees has been exposed
- That employee is going to stay home, if you are concerned – get a free test
- The Employer should get a doctor's release before returning to work.

Self-isolation allowed at hotels?

- Hotel Owners need to check with their HARM policy, where are they liable? Can they be provided with protection?
 - (protects families, but not hotel employees)