



CLM 2021 Workers Compensation, Retail, Restaurant & Hospitality Conference  
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webinar  
Narrative

## **COVID-19 Legal Concerns: What's Top of Mind for the Retail, Restaurant & Hospitality Industry**

### **The Current State of Affairs of COVID-19**

We know that liability lawsuits are an inevitable part of handling claims within the retail, restaurant and hospitality industry, but with coronavirus, we are presented with a new legal frontier. It is a matter of when, not if, a wave of litigation unfurls against retailers, restaurant, and hospitality owner/operator from plaintiffs claiming they were exposed to the virus while on premises.

### **What is Reasonable in a COVID-19 World?**

We have a bit of insight as to how these claims will be asserted based upon the types of claims we saw asserted within the industry after the Norovirus outbreak. Reasonableness will be determined based upon CDC, State and Local Guidelines and a timeline of when information about the virus and ways the virus spreads was known to the general public.

### **The Strongest Defense?**

Strict compliance with CDC Guidelines will be key to mounting defenses to COVID 19 Claims. Causation will be the strongest defense where contact tracing is not available or does not show a clear path back to contact with the premise.

II. Duty to Protect 3<sup>rd</sup> Parties (30 minutes)

The key here is Identify infected individuals, contact trace and isolate/quarantine those individuals and/or remove them from the premises. Additionally, it will be key to isolate/quarantine those individuals who may have come in contact with infected persons, as well as, clean, disinfect and sanitize all contact areas.

### **Guidelines to rely on?**

CDC Guidelines remain the number one source for reliable information to protect against exposure to liability for COVID 19 claims. State and local executive orders provide additional guidance on the standard of reasonableness. Industry Guidelines are also helpful and may be used as the standard of care in future COVID-19 litigation.

### III. Duty to Protect Employees (10 minutes)

What should we do to protect our employees? What OSHA regulations apply here. Risk assessment is important here. Are we dealing with front line employees? Standards may be different. Is It important to develop and employer initiated testing program? Thankfully the CDC has set for standards for reasonable testing programs which retailers may use to test employees within their organization.