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GENERAL LIABILITY AND WORKERS' COMPENSATION ISSUES UNIQUE TO THE HOTEL INDUSTRY

I. Why Hospitality Is Different:

While some aspects of defending hospitality issue claims are similar to any other claim, in many ways they are not. A variety of considerations often present in hospitality settings, discussed below, require specialized training to deal with and defend these unique circumstances.

1. Convention centers:

- a. Convention centers are bustling places and often require a multitude of contractors and sub-contractors employing tradesmen from a variety of crafts to prepare the center for an event. Consequently, the existence of these many people represent possible individuals and/or entities to pursue should an injury arise to shelter the center itself from potential liability. The existence of multiple entities in a convention center setting requires skilled and experienced defense counsel to properly defend a convention center.

2. Restaurants:

- a. Restaurants are places where people come to unwind, eat and drink. Unfortunately, however, a restaurant is exposed to liability stemming from patrons in areas such as dramshop (if the establishment serves alcohol), food preparation, in-house valet services and contractual disputes with patrons and vendors. Experienced defense counsel is required to appropriately investigate the facts and circumstances of any lawsuit in order to effectively defend the restaurant.
- b. Internally, restaurants have exposure for workers' compensation claims for employees from the wait-staff to cooks to managers. Likewise, restaurants require knowledgeable attorneys to investigate alleged claims, identify which are compensable and ensure that injured employees return to work as quickly and cost-effectively as practicable.

3. Pools:

- a. Many hotels provide their guests with pools and/or hot tubs so that their patrons can relax and exercise. Pools and hot tubs, however, carry with them a litany of issues from which general liability suits can arise,

including but not limited to providing adequate lifeguard supervision or signs expressly discharging such a burden, drowning and slip and falls on the pool deck. Experienced attorneys are required in this regard to preemptively provide considerations to deflect later potential liability by implementing pool hours, a no-alcohol policy, signage expressly noting the lack of a lifeguard and requirements that children be watched by accompanying adults. While even the most careful preparation of risk management efforts will decrease liability exposure, an experienced and knowledgeable attorney is needed to carefully handle and defend against suits stemming from risks associated with pools and hot tubes.

4. Gambling:

- a. The presence of gambling on-premises presents many issues which are unique to the hospitality industry, and from which liability can arise. Gambling is most often, if not always, accompanied with the existence of alcohol which can lead to dramshop actions. On-site security personnel must be properly trained to handle unruly and inebriated guests in a manner which allows other guests to continue enjoying themselves and to minimize claims of physical abuse from the removed guest. From a workers' compensation vantage point, employees taking part in a hotel's gambling business can sustain injuries ranging from carpal tunnel to slip and falls. Only a knowledgeable attorney can effectively assist in minimizing general liability exposure and identifying what workers' compensation claims involve compensable injuries versus those that do not.

5. Alcohol:

- a. While the availability of alcohol in hospitality settings is welcomed by most adults, serving alcohol, unfortunately, brings about unintended consequences. Understanding and forecasting the capabilities of alcohol on-site can assist in minimizing exposure by undertaking measures including proper security, monitoring serving amounts and frequency, prohibiting employees from drinking while on-duty and instructing valet personnel, if applicable, to institute good judgment when returning a patron's car. As for workers' compensation exposure, the existence of alcohol in a claimant's system at the time of an alleged accident may serve as a sufficient basis to mount an intoxication defense. Skilled defense counsel is crucial to navigating these issues.

6. Recreational Facilities:

- a. Gyms, fitness centers, basketball courts and other recreational facilities are increasingly demanded by hotel guests. These facilities carry with them special risk factors unique to this industry stemming from the performance of physical activities by patrons. Great attention is demanded to maintain the condition and safety of such facilities to minimize the risk of injuries and associated litigation. In addition, proper signage detailing, for

example, that patrons use the facilities at their own risk is critical in reducing or avoiding exposure.

7. High Profile Guests:

- a. When high-profile guests travel, they understandably demand inconspicuous comfort and attention which requires unique challenges to the hotel or facility. Making certain that proper security is in place and arrangements have been made for everything from the guests' arrival/departure to their room is paramount in providing an enjoyable stay for the guest and successful handling of the encounter for the hotel. Falling short in the preparation and/or execution of the plans can expose the facility to liability including personal injury of the guest and possibly injury to fans. Often times, celebrity appearances at a hotel come with specifically detailed arrangements and a hotels failure or inability to timely provide such can bring about breach of contract liability.

8. Surveillance:

- a. Surveillance cameras have many purposes, all of which are beneficial when striving to minimize liability exposure. First, the existence of surveillance cameras provides guests with the peace of mind that safety is a priority. Secondly, surveillance cameras act as a deterrent to those considering wrongdoing ranging from theft to personal injury. Surveillance cameras also act as a deterring feature with respect to employees to ensure that they do their job properly and safely. Most importantly, however, surveillance cameras can provide significant evidence in defending against general liability suits and workers' compensation claims.

9. Infectious diseases risk:

- a. Hotels are abound with masses of people from all around the world. In serving as host to thousands of people at any given time, it is imperative that hotels and conference centers have proper procedures in place to promote hygiene from both patrons and employees. It is also critical that hotels implement and carefully follow disease control guidelines from organizations such as the Centers for Disease Control (CDC) to minimize risk of spreading diseases and to act as evidence of the duty of care exercised in the event of lawsuits premised upon the contraction of a disease. From a workers' compensation standpoint, promoting hygiene, healthy lifestyles and clean work environments serves to minimize claims concerning the spread of diseases.

10. Bed bug litigation:

- a. Bed bugs cause a number of issues for the hospitality industry, specifically including the risk of liability exposure. With the rise of the bed bug problem nationally, the number of lawsuits regarding bed bugs have also risen. It is not uncommon to see suits pursuing damages not only relative

to the immediate physical conditions caused by bed bugs, but also ongoing and more serious medical conditions as well as psychological disorders. Consequently, the presence of bed bugs is accompanied with the risk of exposure for a multitude of potential physical and mental injuries. Undertaking significant preventative measures is beneficial and an experienced attorney is required to assist in minimizing or avoiding liability and damages if and when a bed bug suit is brought.