



RETURN TO WORK

PREPARING YOUR WORKPLACE: HOW TO NAVIGATE SAFETY MANDATES AND RECOMMENDATIONS

MODERATOR:

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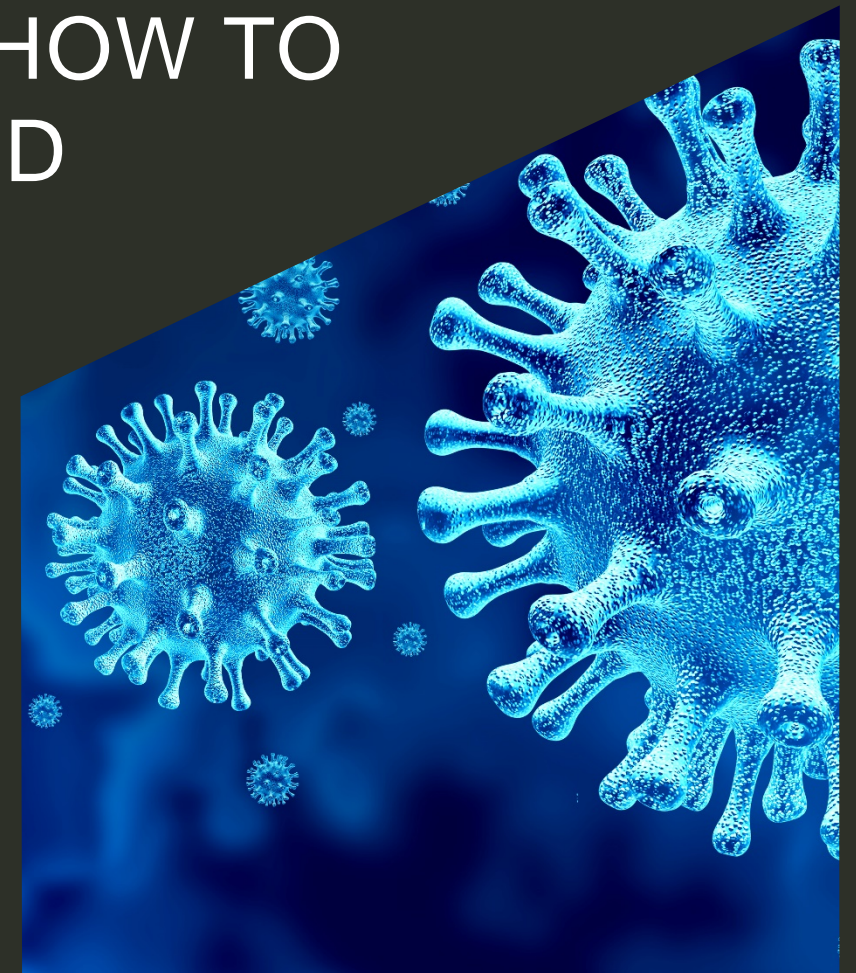
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May 19, 2020

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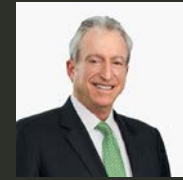


AGENDA AND SPEAKERS

- Social Distancing Protocols
- Sanitization Protocols
- Personal Protective Equipment
- Symptom Screening Protocol
- Signage and Communication
- Q&A

Note regarding Q&A: please use the Q&A feature in the Zoom window to submit your questions. All attendees will be muted and will be unable to verbally ask questions. Questions answered during the call will not be attributed to the participant who submitted the question. In the event we are unable to address all questions due to the time constraints, we will follow-up with you after the webinar.

Joshua Markus' comments today are his personal observations and are not those of Ardagh.



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OVERVIEW OF THE RETURN TO WORK SERIES

COMING UP: RETURN TO WORK SERIES

Session 3: Preparing Your Workforce

- Legal pitfalls in recalling/rehiring
- Scheduling and teleworking
- Pay-related issues
- Dealing with exigent COVID-19-related circumstances
- WARN obligations

Session 4: Preparing Your Responses

- Manager and employee training
- Handling safety complaints
- Handling ADA and accommodation requests
- Handling leave requests, including paid sick leave
- OSHA

Session 5: Preparing for the Unknown

- What to do when an employee tests positive
- Preparing for future waves
- Preparing for audits

Session 6: Preparing for Battle

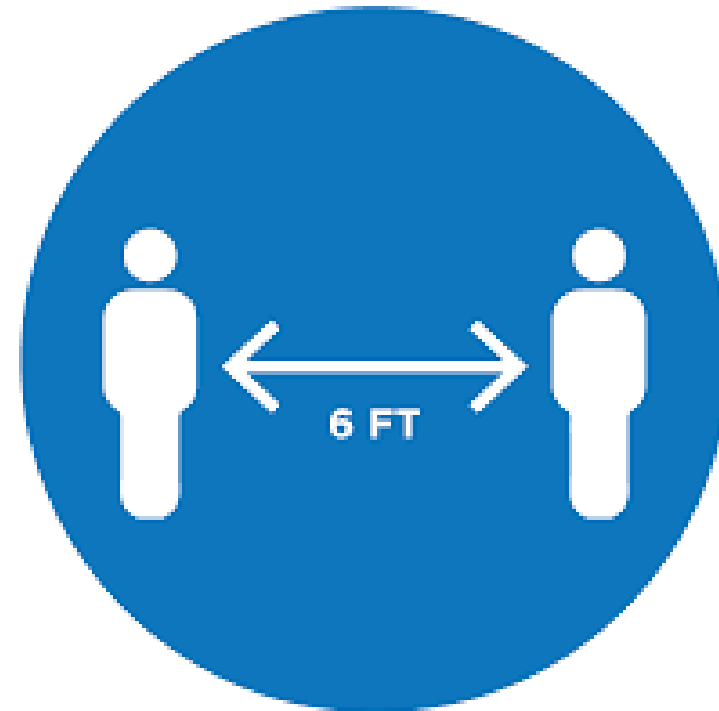
- The coming wave of COVID-19 employment litigation
- Tools to arm yourself
- Analysis of likely litigation battles



SOCIAL DISTANCING PROTOCOL

WHAT ARE THE SOCIAL DISTANCING PROTOCOLS?

- CDC social distancing recommendations
 - Stay at least 6 feet (about 2 arms' length) from other people
 - Do not gather in groups
 - Stay out of crowded places and avoid mass gatherings
 - PPE and enhanced sanitization
- State and local orders and guidelines
- State health departments
- Industry specific guidance



HOW CAN EMPLOYERS IMPLEMENT SOCIAL DISTANCING PROTOCOLS IN THE WORKPLACE?

- Approach will vary by industry, workplace setting, and culture
- Implementation mechanisms
 - Training
 - Physical barriers
 - Floor and wall markers
 - Direct flow and direction of foot traffic
 - Staggered schedules / breaks
 - Maximum capacity and limiting common areas, elevators, and stairwells
 - Continued remote working and virtual meetings
- Enforcement mechanisms

AVOIDING EMPLOYMENT LITIGATION PITFALLS WITH OUR SOCIAL DISTANCING PROTOCOLS

- Limitation of common areas, deliveries, schedules, and workplace modifications
 - Meal and rest break obligations
 - Posting requirements
 - Suitable seating
- Recall of partial workforce to worksite; assessing individual employee requests for accommodation
 - Legitimate business reasons
 - Precedent setting
 - ADA reasonable accommodations
- Even enforcement of policies



SANITIZATION PROTOCOL

WHAT ARE THE SANITIZATION PROTOCOLS?

CDC recommends:

- Disinfectant for hard, non-porous surfaces frequently touched by multiple individuals, disinfected daily, at a minimum (with high-touch surfaces cleaned more frequently), e.g.:
 - Tables
 - Doorknobs
 - Light switches
 - Countertops
 - Handles
 - Desks
 - Phones
 - Keyboards / touchscreens
 - Toilets, faucets, and sinks

OSHA recommends:

- Basic infection prevention measures
 - Maintenance of regular housekeeping practices
 - Routine cleaning and disinfecting of surfaces, equipment, and other elements of the work environment
- Environmental Protection Agency (EPA) - approved disinfectant labels with claims against emerging viral pathogens
- See [EPA.gov](https://www.epa.gov/pesticide-registration/list-n-disinfectants) List N disinfectants for use against SARS-CoV-2

HOW CAN EMPLOYERS IMPLEMENT SANITIZATION PROTOCOLS?

Implementation

- Review and revise existing cleaning protocols
 - Implement written policy
 - Communicate with third-party vendors, renegotiate contracts, etc.
- Frequency of cleaning
 - Protocol for disinfecting shared equipment after every use
- Handwashing and/or hand sanitization stations
- No-contact alternatives to using common time clocks, microwaves, vending machines, etc.
 - Application-based methods
 - Safety tissue / stylus
 - Cleaning requirements after each use





PERSONAL PROTECTION EQUIPMENT (PPE) PROTOCOLS

WHAT ARE THE GUIDELINES FOR PPE?

- State and Local Regulations/Guidance
- OSHA
- CDC advises the use of simple cloth face coverings in public settings where other social distancing measures are difficult to maintain to slow the spread of the virus
- White House “Opening Up America Again” guidelines advises individuals to “strongly consider” using face coverings while in public, and particularly when using mass transit



HOW CAN EMPLOYERS IMPLEMENT PPE PROTOCOLS?

- Are employers required to pay for and provide PPE?
 - State and Local Regulations
 - Los Angeles County
 - Miami-Dade County
- OSHA
 - General duty clause
 - Recent guidance on preparing the workplace for COVID-19
 - 4 risk categories (low exposure to very high exposure) with corresponding PPE recommendations
- What do you provide?
 - Gloves, goggles, face shields, face masks, respiratory protection
 - Depends on nature of business
 - Training

HOW CAN EMPLOYERS IMPLEMENT PPE PROTOCOLS?

- Compliance with policies
 - Required policy
 - Respond in the moment
 - Why did the employee fail to follow the policy; tailor response based on the reason given
 - Potential accommodations for:
 - Medical conditions
 - Religious accommodation
- Other Considerations
 - OSHA recommends PPE be properly removed, cleaned, and stored or disposed of, as applicable, to avoid contamination of self, others, or the environment



SCREENING PROTOCOL

WHAT ARE THE SYMPTOM SCREENING PROTOCOLS?

COVID-19 Symptoms

- 2-14 days after exposure
 - Cough
 - Shortness of breath or difficulty breathing
 - Fever
 - Chills
 - Muscle pain
 - Sore throat
 - New loss of taste or smell
- Some asymptomatic cases

Employee Self-Screening

- Before leaving home
- Questionnaire
- Monitoring during workday; leave workplace if symptoms develop

Employer Screening

- Employees, vendors, customers
- Temperature checks
- Symptom checks

SYMPTOM SCREENING PROTOCOLS

- State and local requirements regarding symptom checks
 - Some states require or strongly recommend symptom checks by employer
 - E.g. Colorado, Connecticut, New Hampshire
- COVID-19 testing and antibody testing
 - EEOC guidance permits employers to conduct mandatory testing of employees for the presence of COVID-19
 - Medical exam
 - Must ensure tests are accurate and reliable
 - Consider the incidence of false-positives or false-negatives associated with a particular test
 - What these tests reveal; limitations
 - How results will inform our return to work strategy

EMPLOYMENT LAW CONSIDERATIONS WITH OUR SYMPTOM SCREENING PROTOCOLS

- Self-reporting screening vs. on-site screening
 - Non-exempt employee wait time
 - Reimbursement
 - Show up pay
 - Privacy
 - Discipline
- What information are you collecting?
 - Medical – symptoms, temperature, antibodies
 - Privacy of medical and genetic information
 - Revealing protected characteristics (caregiver status, marital status, partnership status, etc.)
 - Who is collecting this data?
 - Privacy and PPE protocols

MANAGING EMPLOYEES WHO REPORT COVID-19 SYMPTOMS

- Employee with symptoms before shift begins
 - Stay home
 - Paid sick leave, PTO/vacation, FFCRA, local laws
 - ADA accommodation for disabilities
- Employee reports symptoms at the workplace
 - Send home immediately
 - Sanitization of surfaces/area
 - Inform individuals who came into contact with person (do not disclose employee name/symptoms), send home to self-quarantine for CDC recommended period (can work remotely)
- Written policy, training, and consistency



SIGNAGE AND COMMUNICATION

SIGNAGE

- Transparency with employees
 - Written policy and training
 - Compliance with law and CDC guidance
 - Prioritizing safety of employees and customers/clients
 - Communicate employee obligations
 - Discipline
- Public relations
 - Communicating the “why” behind each policy
- Required postings
 - FFCRA
 - Social distancing signage – 6 feet, max capacity, wearing PPE
 - Relocating workplace postings in common areas that may be temporarily closed



THANK YOU / QUESTIONS?



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Upcoming in our Return to Work Virtual Toolkit:

- Part 3. Preparing Your Workforce: How to Avoid Legal Landmines When Bringing Employees Back | **May 21**
- Part 4. Preparing Your Responses: How to Tackle Opening-Day Obstacles | **May 26**
- Part 5. Preparing for the Unknown: How to Anticipate and Address Future Workplace Problems | **May 28**
- Part 6. Preparing for Battle: How to Build Your Litigation Defenses Now | **June 2**

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