

COVID-19 Litigation is Coming – Are You Ready?

Businesses across the country are facing challenges, including lawsuits, as they grapple with how COVID-19 has impacted their operations, work forces, and supply chains. The wave of litigation is rising, and it appears that no industry is immune. Schiff Hardin's Coronavirus Task Force is publishing this series to identify of-the-moment issues and potential liabilities facing businesses as they begin to re-open, transform their processes, and face the new reality.



March 9, 2021

How COVID Has Changed False Advertising Rules

By Katia Asche & Jill Berry

In light of the COVID-19 pandemic, manufacturers of cleaning products may want to examine what their marketing says (or doesn't say) about their products' ability to disinfect. What manufacturers should note: Plaintiffs' lawyers are filing an increasing number of false advertising claims alleging that cleaning and sanitizing products do not do what they purport to do. While plaintiffs must still satisfy the existing legal standards for false advertising claims, these claims may lead some manufacturers to consider adjusting their marketing strategies.

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February 9, 2021

How Companies Can Approach Wider Availability of COVID-19 Vaccines in the Coming Months

By Brett F. Clements & Jeffrey D. Skinner

After a very difficult 2020, rapid vaccine development has sparked optimism among the public and in the business community. But as we wrote last week, there's a long road ahead while infections remain high. Today we look at considerations for a new transition period – vaccines becoming more widely available, but before the country achieves herd immunity.

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February 1, 2021

Business Considerations in Light of Increases in COVID-19 Cases

By Brett F. Clements & Jeffrey D. Skinner

As COVID-19 cases have spiked across the country, many businesses have adjusted certain operations with an eye on customer and employee safety, as well as to ensure compliance with recent changes to government orders. Some businesses have faced challenges that they have not seen since last spring. Over the summer, we explained some ways companies could prepare for a potential winter resurgence of the virus. Today we consider how companies may wish to proceed as average daily death totals in the U.S. remain high.

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September 10, 2020

Retooling in the Midst of COVID-19: Statutory Protections for Manufacturers

By Jasmine Dela Luna, Malerie Ma Roddy & Jeffrey D. Skinner

From apparel companies that have shifted from making clothing to making face masks, to distilleries and breweries that are now producing hand sanitizer, to consumer goods and auto makers manufacturing ventilators and respirators, manufacturers nationwide have shifted their production lines to meet what consumers need during the COVID-19 pandemic.

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August 18, 2020

Reopening and Readjusting: Preparing for a Diagnosis or Resurgence in the Coming Months

By Brett F. Clements, Michael P. Wissa & Jeffrey D. Skinner

Many companies were caught off-guard in the spring when diagnoses of COVID-19 multiplied rapidly and forced businesses to close or drastically change their policies with little warning. Now companies that have reopened must prepare for the future. As we have seen in recent weeks, resurgences may occur at any time in different parts of the country. And epidemiologists have warned about a potential second wave of infections in the fall.

In our third post in this Reopening and Readjusting series, we share proactive steps business can take to prepare for future infections.

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August 4, 2020

Reopening and Readjusting: Communicating COVID-19 Policies to All Stakeholders

By Brett F. Clements, Michael P. Wissa & Jeffrey D. Skinner

In our last post, we discussed policy changes and new procedures that companies should consider as they reopen amid the COVID-19 pandemic, particularly given the increase in cases in many parts of the country. But companies cannot change policies in a vacuum: they must clearly and effectively communicate these changes to employees, customers, and the public. Clear, written policies will be ineffective if they are not communicated effectively.

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July 21, 2020

Reopening and Readjusting: What Businesses Should Be Thinking About

By Brett F. Clements, Michael P. Wissa & Jeffrey D. Skinner

Business closures have been immensely difficult for companies of all sizes during the COVID-19 pandemic. But reopening is proving difficult, too, especially given the ever-changing nature of the pandemic. As cases have surged in recent weeks in new parts of the country, businesses have been forced to reassess their operational plans in both the near- and long-term. Owners and executives are paying close attention both to customer and employee safety. And businesses must be mindful of potential legal ramifications of their decisions.

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June 16, 2020

A Warning to One, A Warning to All?

By Max Heckendorn & Jeffrey D. Skinner

As part of their ongoing effort to combat misinformation about COVID-19, federal agencies have issued warning letters to more than 150 companies. While companies know that a warning letter is serious and requires immediate attention, perhaps the greater challenge is what often follows: the so-called “piggyback” class action lawsuit. And recently, plaintiffs’ attorneys have gone one step further: they have been filing “piggyback” class actions not against the company that received the warning letter but against competitors that make similar products.

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May 28, 2020

Expert Strategies: Battling Causation in COVID-19 Tort Cases

By Brett F. Clements & Jeffrey D. Skinner

As COVID-19 lawsuits proliferate, businesses and their counsel should prepare for a battle of the experts on causation when there is no direct evidence that a plaintiff's injury can be attributed to a certain source. As product liability lawyers know, plaintiffs typically must prove both general causation and specific causation in tort cases alleging exposure to a pathogen. General causation requires expert testimony to show that the exposure to something – here the novel coronavirus – can cause the type of injury – COVID-19 – that affected the plaintiff. Specific causation, however, requires something more. To prove specific causation, plaintiffs must be able to attribute their exposure or injury to a particular defendant.

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May 7, 2020

Five Approaches to Keep Customers and Employees Safe When Reopening

By Brett F. Clements & Jeffrey D. Skinner

As businesses start to reopen across the country, customer-facing companies should consider best practices to reduce the risks of customer and employee exposure to the novel coronavirus, the cause of COVID-19. The right approach will differ based on the type of business, the state and local government guidelines and orders in place, and the geographic region in which the business operates. A hair salon in New York City, for example, will need to take different precautions than an outdoor nursery in Anchorage. Companies should develop a thoughtful plan to reduce the chance of exposure to the virus at a business given the ever-evolving scientific understanding of the disease. Here are five ideas that businesses can use to help ensure that their customers and employees remain safe.

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