

A Grand Re-Opening – Litigation Risks When Bringing Your Restaurant's Team Back to Work
Alden Parker | Fisher Phillips

As California continues phased re-opening, it is important for restaurant and hotels owners to understand their legal rights and obligations while making plans to resume business post-COVID-19. This presentation will address some of the some of the key legal issues as phased reopening continues. It is important to understand what your legal rights and obligations are as you develop your plans for resuming business post-COVID-19.

RESTART PLAN OF ACTION FOR RESTAURANTS

- Designate COVID-19 response team
- Reimagine processes
- Protocols, procedures and policies
- Evaluate local and state shutdown orders

RESTART PLAN OF ACTION FOR RESTAURANTS

- Finances (PPP Forgiveness)
- Supplies, goods and materials necessary to operate
- PPE supplies
- Disinfection protocols
- Protocol for health screening of employees, vendors, visitors, customers
- Transportation
- Training of managers, supervisors and employees
- Signage

WORKPLACE SAFETY FOR RESTAURANTS

- OSHA Compliance
- General Guidelines
- Personal Protective Equipment (PPE)
- Bloodborne Pathogens standard
- Infectious disease response plan
- Recordkeeping
- Reporting
- Common Questions
- Employee refuses to return
- Taking temperatures of employees, vendors and customers
- Masks in the workplace
- Fitness for duty exams
- Employee tests positive

MANAGEMENT AND SUPERVISORS

- Advance training on all new policies and protocols
- Responding to questions or concerns by employees and other stakeholders
- Share updates impacting the business

COMMITMENT THROUGH COMMUNICATIONS

- Messages – Common Themes

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- Care and Concern
- Business Plans
- Policies and Programs
- Resources

Best Practices For Returning Employees to Your Restaurant

- Furloughed employees
- Re-hiring terminated employees
- Arbitration agreements
- Employment contract revisions
- Collective bargaining agreement revisions

FAMILIES FIRST RESPONSE ACT FOR YOUR RESTAURANT EMPLOYEES

- Emergency Paid Sick Leave
- Emergency Family And Medical Leave Act
- Qualifying Reasons

Must provide paid sick time “to the extent the employee is unable to work (or telework) due to a need for leave because:

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis
4. The employee is caring for an individual who is subject to an order or self-quarantine as described above
5. The employee is caring for a son or daughter if school or child care is closed/unavailable
6. The employee is experiencing “any other substantially similar condition” specified by HHS (catch all)

EMERGENCY FAMILY AND MEDICAL LEAVE | Qualifying Reasons

12 weeks of job protected leave when:

“The employee is unable to work (or telework) due to the need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency”

WAGE AND HOUR ISSUES FOR THE RESTAURANT INDUSTRY DURING A TIME OF RECOVERY

- Compliance
- State laws
- Bonuses
- Pay adjustments
- Maintaining exempt status

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