

## **“COVID-19 Legal Concerns: What’s Top of Mind for Hoteliers”**

**Jennifer Miller, Schuyler Smith, and Jason Bloom**

**Hamilton Miller & Birthisel**

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Retail, restaurant and other hospitality owners/operators have a common-law duty to warn customers, vendors, 3rd parties if an employee or guest tests positive for COVID-19, is experiencing symptoms or may have come into close contact with someone who tested positive. This presentation answers what is Top of Mind for are these companies liable if an employee infects others? Do they have a common-law duty to take measures to protect/prevent employees from spreading to customers, vendors or other 3rd parties? Scope of duty change if customers include especially vulnerable populations? What measures can companies take to reduce risk of tort liability during phased re-openings? Does company’s compliance with federal, state, or local re-opening guidelines provide a defense to such suits? Do companies have a common-law duty to take measures to protect employees from coming into contact with or being infected while on the job? Does the scope of duty change if employees perform essential services for the public? Should companies institute a COVID-19 and/or antibody testing program for employees returning to work? Could companies face law suits from employees or 3rd parties alleging that the program or testing itself was inadequate or inaccurate? What is the scope of the federal preemption and immunity from suits under Public Readiness and Emergency Preparedness Act, if any?.

Why is this presentation applicable to claim professionals? Businesses that do not use reasonable care to protect patrons from COVID-19 may suffer some liability. However, there are some very strong defenses such as causation. Claims professionals who work in the area of litigation need to understand the litigation process and important elements in order to best serve their company and its insured’s. Adjusters who handle litigated claims need to be able to work closely with outside counsel and understanding the litigation process assists them in this part of their work. This knowledge helps adjusters work with their outside legal counsel to achieve the best possible result.