



# IFA LEGAL SYMPOSIUM

# Post-COVID Re-opening and Operating Issues

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# Speakers

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# Overview

- Challenges and Adaptations Across Three Industries: Restaurants, Hospitality, Services
- Franchisor Responses to Covid-19
- Customer and Employee Health Concerns and Operational Challenges
- Re-Opening Considerations
- Third-Party Operational Impacts
- Operational Adaptations Have Become a Way of Life

# Restaurants – Challenges and Adaptations

- Challenges
  - Government orders
  - Customer and employee concerns
  - Supply chain disruptions
- Adaptations
  - COVID Protocols
  - Drive thru and takeout
  - Patio/outdoor seating
  - Online ordering and payment
  - First-party and third-party delivery
  - Digital technology

# Hospitality – Challenges and Adaptations

- Challenges
  - Government orders
  - Company travel restrictions
  - Guest and employee concerns
- Adaptations
  - COVID protocols
  - Discounts

# Services – Challenges and Adaptations

- Challenges
  - Government orders
  - Customer and employee concerns
  - Enforcing requirements at customer home or place of business
- Adaptations
  - COVID Protocols
  - Home Based and Virtual Experiences
  - Mobile Apps

# Franchisor Responses to COVID

- Modified system standards
- Royalty and ad fund relief
- Extension of development and remodeling deadlines
- Assisting with third-party negotiations
- Providing information regarding government assistance programs
- New programs



# Customer and Employee Health Concerns

- Implementing COVID-19 Protocols
  - Face Coverings
  - Social Distancing
- Litigation
  - Failure to implement safety protocols/policies
  - Inadequate supplies of PPE
  - Failure to monitor infections and inform employees of potential risks
  - Insurance coverage
  - Franchisees' refusal to comply with state-wide mandate or franchisors' standards
- Other Legal Considerations
  - ADA – reasonable accommodations for customers and employees
  - Vaccines – mandates and incentives
  - Joint employer risk

# Re-Opening Considerations

- Labor Issues
  - Attracting workers
  - Worker health and safety
  - Remote working
- Rolling back temporary assistance measures
  - Legal considerations: waiver and estoppel; “New Day” letters
- Avoiding disparate treatment of franchisees
- FDD considerations
- Changes to programs and services (e.g., training, delivery, digital technology)

# Third-Party Operational Impacts

- Supply Chain Disruptions
- Landlords and Vendors
- Contract Performance
  - Impossibility and Impracticability
  - Force Majeure
  - Frustration of Purpose

# Operational Adaptations Have Become a Way of Life

- Online Ordering, Off-Premises Options
- Third-Party Delivery
- Ghost Kitchens
- Technology
- Training

# Resources

- Fifty-state Summary of Current Business Limitations: <https://www.icemiller.com/ice-on-fire-insights/publications/fifty-state-summary-on-status-of-business-reopenin/>).
- CDC: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- EEOC: <https://www.eeoc.gov/coronavirus>
- NLRB advice memos: <https://www.nlrb.gov/guidance/memos-research/advice-memos/advice-memoranda-dealing-covid-19>