

May 20, 2020

COVID-19's Attack on the Hospitality Industry and Workers' Comp Claims

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By **Amy Siegel Oran** | May 20, 2020 at 09:52 AM



Amy Oran, Kelley Kronenberg Fort Lauderdale

While it may seem trivial in light of the deaths and horrors surrounding COVID-19, the disease is spreading its tentacles into the world of Florida workers' compensation. Many have hypothesized about the compensability of the virus should one allegedly contract coronavirus on the job. However, that is only one facet of how this virus is impacting our industry, particularly claims within the hospitality industry, and it is going to be felt for months—and likely years—ahead.

Tourism, which is considered Florida's top industry, added \$111.7 billion to the state's economy in 2016; in 2018, 126.1 million visitors flocked to the Sunshine State. Since the widespread diagnoses of COVID-19 began, travel came to a screeching halt, rendering tourism as we have known it gasping for air. Our theme parks are closed, beach access limited, and hotels empty. Disney World alone furloughed 100,000 employees. Hotel staff, from the front desk, to the kitchen, to the housekeepers, become unnecessary when there are no guests to serve. This is an unmitigated disaster for the industry.

The hundreds of thousands of hospitality workers on furlough or laid off has significantly downsized the number of active employees and the rate of workplace accidents has dwindled in correlation thereto. While no one practicing law in the field of workers' compensation reasonably wishes injury upon anyone, a lack of jobs and a lack of injuries will inevitably lead to a reduction in litigation. All industries are likely to see a reduction of new injuries for at least a few months; but, recovery in some arenas will simply take longer than others. As states begin to lift the stay-at-home orders, and people return to their "new normal," what does that mean for travel? When can the theme parks safely reopen? How long before people feel comfortable getting on airplanes? When will people have the money to take a vacation after all of the hardship we have seen? "Reopening" Florida will not restore the tourism

industry; it could be years before we see anywhere near as much tourism revenue and visitors as in years past.

The most obvious effect, or the one that is likely to be most noticeable is a decrease in claims, as discussed above. With the stay-at-home orders being issued in March, it is early to have the reliable statistics of how many fewer claims have been filed; but, if the millions of applications for reemployment assistance benefits (unemployment) is any indicator, it is going to be drastic for most and for the hospitality companies, devastating.

That is not all though. When we narrow our focus on the hospitality industry, we also have to consider, and frankly worry about, how this is impacting the claims currently pending. With businesses closed or running on limited staff, it is much more unlikely accident-related physical restrictions can be accommodated. Even those hurt, but capable of working, may have no job to which they can return, though totally unrelated to the injury. In South Florida, as of the date this was written, we do not know when our restaurants will open for dine-in service. Airlines are starting to fly again, some requiring passengers requiring masks; but realistically, how many people are comfortable exposing themselves to the germs of hundreds of others sitting in close proximity. Moreover, those who have been furloughed, taken pay cuts, or been laid off altogether, are unlikely to be able to afford a family trip to Disney World or South Beach. There is little to no money coming into the hospitality industry and thus, how can money be paid out?

In my defense-oriented practice, I am fortunate enough to represent hospitality staffing agencies, hotel chains and restaurants. Every day now, I hear about the uncertainty of whether each of these valued clients will survive this recession. While still functioning, but gravely concerned about the lack of revenue, my clients are justifiably hesitant to pay money they do not

necessarily owe. Meaning, while my clients provide the benefits to which their employees are entitled, few are willing to settle for fear of not having enough money later to continue writing the checks for their staff and to keep their companies functioning. The uncertainty renders them financially paralyzed without the flexibility to consider more options in defense of their cases. On a practical level, this reduces my ability to settle claims for clients in this struggling industry. For all involved, it is far from ideal.

I wish I could conclude this article with a message of hope, offering a timeline before we reached the proverbial light at the end of the tunnel; unfortunately, I cannot. Achieving our new normal is going to be a gradual process for everyone and every industry; however, getting back to a place wherein the hospitality industry is again profitable is going to be painfully slow, especially for those of us who rely upon it for the success of our own practice.

Amy Siegel Oran *is a partner in the West Palm Beach office of Kelley Kronenberg, concentrating her practice exclusively on workers' compensation defense. She may be reached at 561-684-5956 or asiegel@kklaw.com.*