

COVID-19 RETURN TO WORK STRATEGIES – LEGAL, INSURANCE AND WORKPLACE CONSIDERATIONS

Friday, May 1, 2020

Presenter Contact Information



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Legal Disclaimer

Things are changing rapidly. We are working extremely hard to keep up with all that is happening. This webinar is based on available information as of May 1, 2020, but everyone must understand that this webinar is not a substitute for legal advice. If there are questions about the information contained in the presentation and how it applies to your business, then you should contact your legal counsel. This presentation is not intended and will not serve as a substitute for legal counsel on these issues. Given the complexity and rapidly changing landscape, you must consult with your legal counsel on these issues.

Legal Considerations for Employers

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Sean A. Monson – Employment & Labor Chair

Return to Work

- Create a Plan
 - Who returns
 - When they return/staggered work shifts
 - PPE/Social Distancing (employees and customers)
 - OSHA/CDC/local guidelines (PPE, distancing, cleaning)
 - EPA approved cleaners
 - Cleaning/sanitation schedules
 - Safety huddles on a regular basis

Return to Work

- Create a plan (cont.)
 - Communicating to EEs
 - Training of EEs
 - Temperature check
 - Screening for symptoms (expanded symptom list from CDC)
 - Response to symptom demonstration
 - Contact tracing and isolation/quarantine
 - Response to refusal to return because of safety concerns
 - How manage FFCRA leave

Return to Work

- Why create a plan?
 - Liability risk (employees and customers)
 - Standard of care
 - Immunity statutes

Legal Issues for Landlords and Tenants

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Jason S. Nichols – Real Estate & Finance Chair

Legal Compliance for the Premises and Common Areas

- Communication is key (cooperation, positive cases in the building/center, etc.)
- Review lease agreements and evaluate obligations (sliding scale of responsibility)
- Comply with legal requirements (including regulatory and health guidelines)
- Operational adjustments (postings, cleaning schedules, temporary closures, etc.)
- Building/center rules and regulations
- Self-help remedies

Liability Protections Against COVID-19 Claims

- Existing waivers and indemnities (generally favors the landlord)
- Include waivers and indemnities in rent accommodation documentation
- SB 3007 provides civil immunity related to exposure to COVID-19

“[A] person is immune from civil liability for damages or an injury resulting from exposure of an individual to COVID-19 on the premises owned or operated by the person, or during an activity managed by the person. Immunity . . . does not apply to: (a) willful misconduct; (b) reckless infliction of harm; or (c) intentional infliction of harm.”

- The bill has been approved by the legislature but not yet signed by the governor.

Q & A

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Thank You

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COVID-19: Returning to Work: Insurance Considerations



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May 1, 2020

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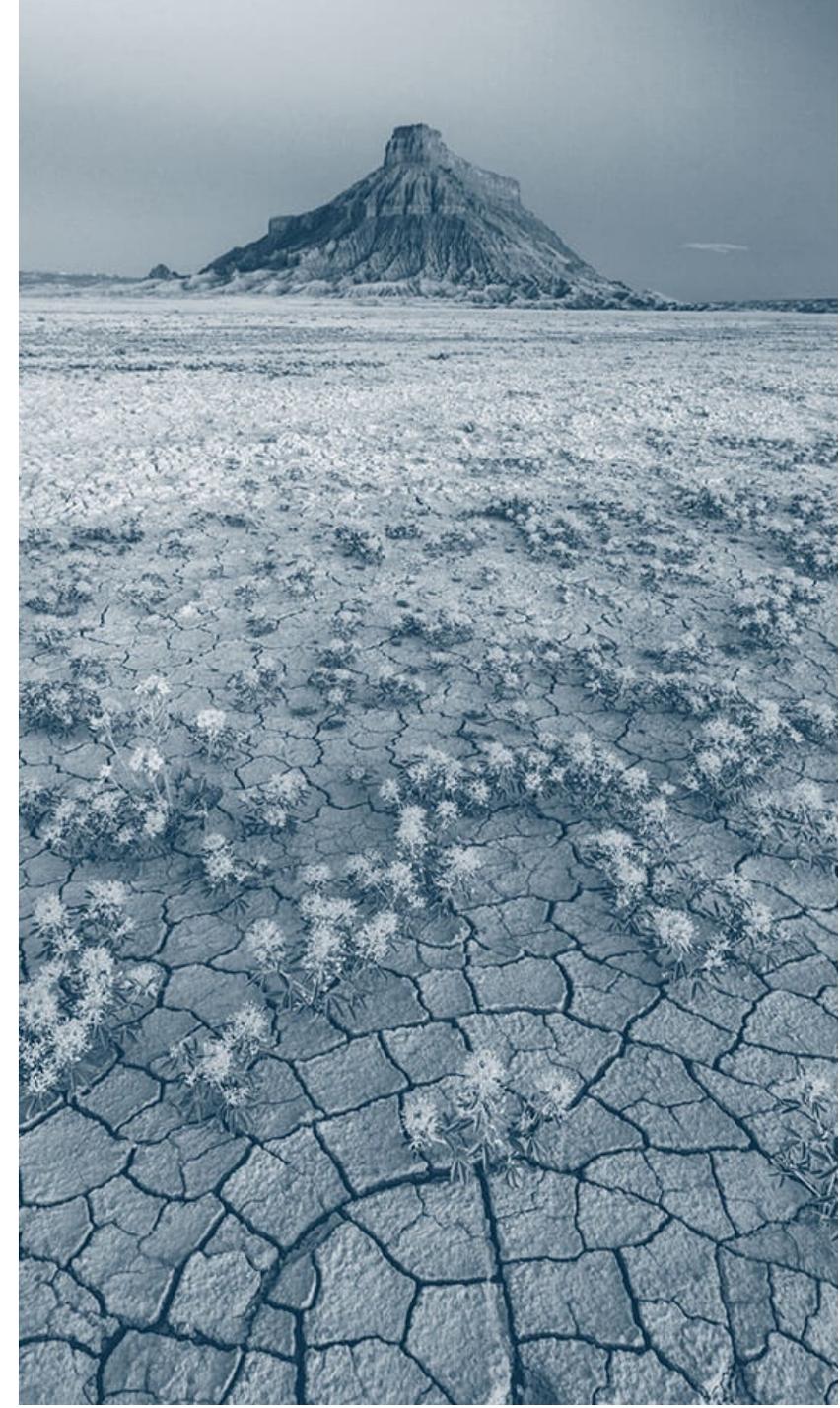
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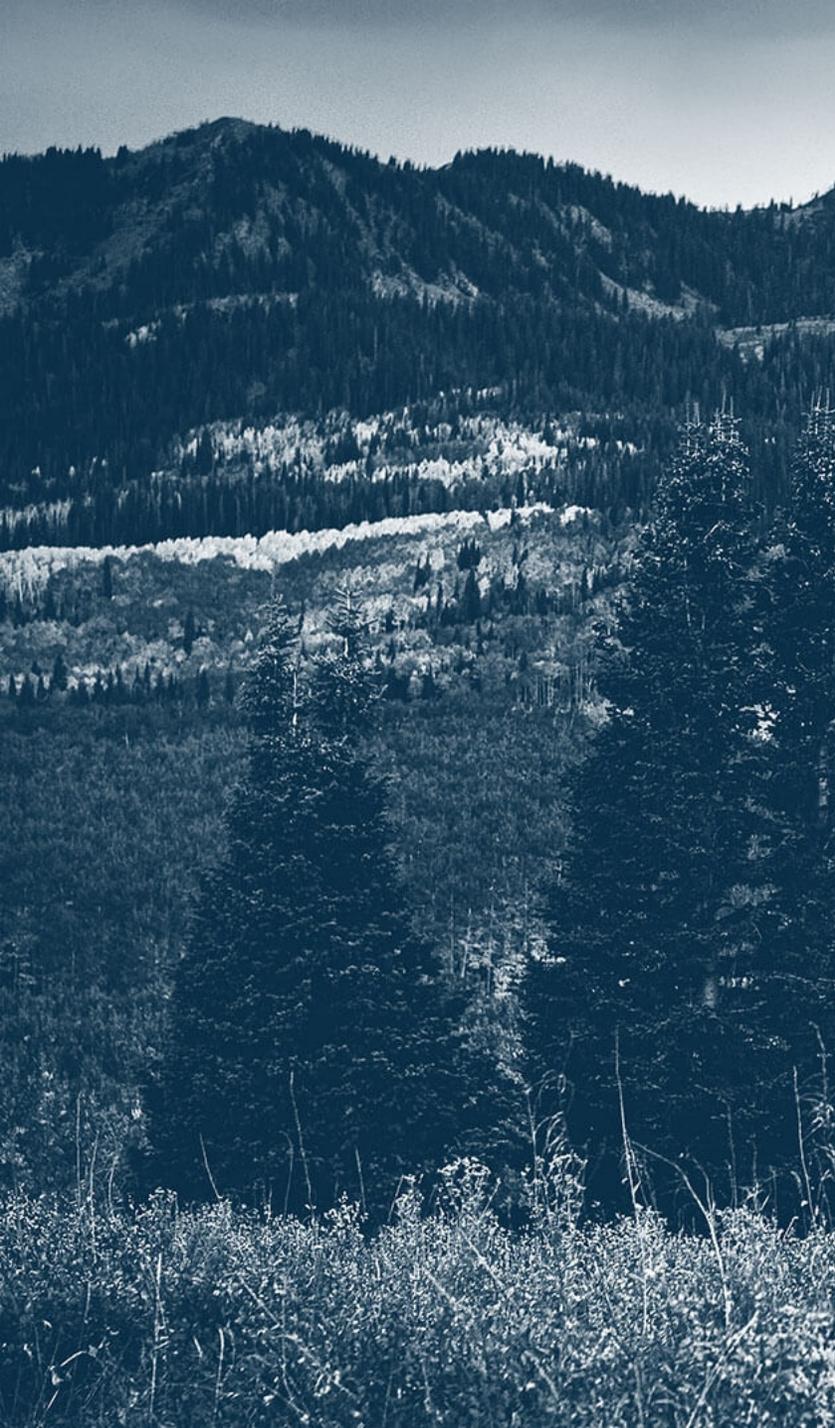
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Property: Adjusting Exposures and Reviewing Protections

Concerns	Recommendations
Effect of suspended operations on equipment and systems (especially fire protection, boiler and machinery equipment)	<ul style="list-style-type: none"> • Inspect essential equipment prior to opening. • Determine if insurance would cover resultant accidental damage arising from hot/ cold testing. • “Catch up” on any regular maintenance which may have been delayed due to COVID-19.
Impact of changes to property locations, categories and values	<ul style="list-style-type: none"> • Update the “Statement of Values” (SOV). • Update the Business Income and Extra Expense (BI/EE) worksheet. • Confirm the status (and insurance implications) of property that will remain offsite. • Review insurance limitations concerning unscheduled locations, vacancy and protective safeguards
Change in occupancy of neighboring properties	<ul style="list-style-type: none"> • Check lease or ask landlord about recourse • Consider additional security, fire protection, or other options to safeguard property
Lease requirements	Prepare for emphasis on Waiver of Subrogation





General Liability: Hosting Business Invitees

Concerns	Recommendations
<p>Customer/ invitee alleges illness contracted on business premises</p>	<ul style="list-style-type: none"> Engage departmental stakeholders on an enterprise-wide basis to define practical and effective protective protocol (e.g., for PPE, hygiene, customer interactions, use of “common” areas and equipment), as well as internal and external communications. Implement training requirements for employees and invitees. Consider written training acknowledgements (following recommendations from counsel). To the extent possible, require that subcontractors and business invitees adhere to similar standards. Monitor the potential impact of legal immunity or other liability implications of COVID-19-related legislation.
<p>Lease requirements</p>	<p>Prepare for emphasis on:</p> <ul style="list-style-type: none"> Additional Insured Primary and Non-contributory Waiver of Subrogation

Workers' Compensation & Employers Liability

- Conditions = Occupational and Peculiar to the work or work environment.
- Compensability / benefits governed by individual state statutes. Standard test is *“Was the employee benefiting the employer when exposed to the illness or disease?”*
- Changes and updates likely – i.e. expansion of coverage for essential workers.
- *As the disease spreads and more community cases emerge, the chances decrease that any given case would be compensable, as illnesses that result from exposure that is common to the general public are typically excluded from workers' compensation coverage.*
- Going-forward concerns:
 - COVID-19 can be a recordable illness if a worker is infected as a result of performing their work-related duties. However, employers are only responsible for recording cases of COVID-19 if **ALL** of the following are true:
 - The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19)
 - The case is work-related (as defined by 29 CFR 1904.5); and
 - The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g., medical treatment beyond first aid, days away from work).

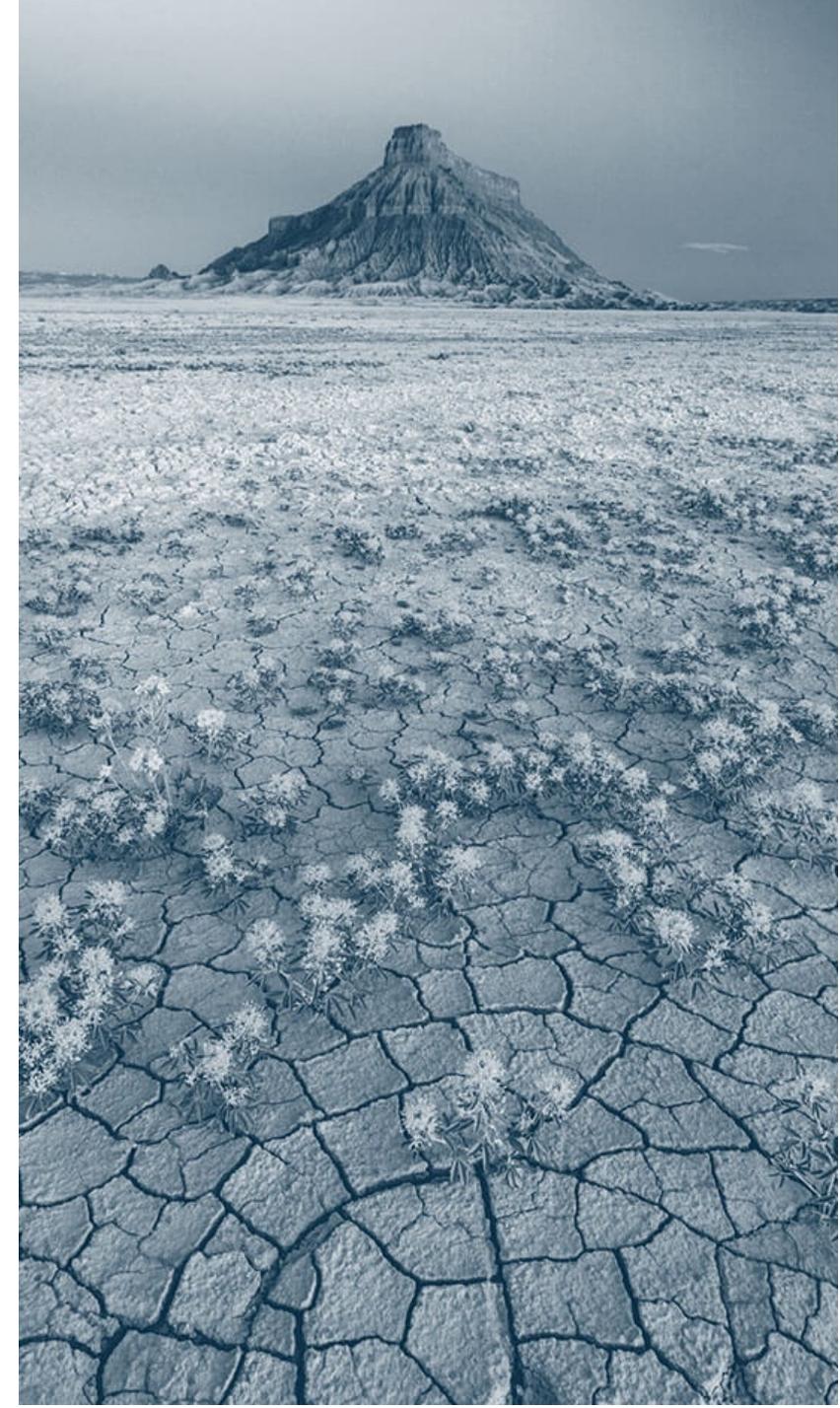
Employment Practices Liability

Employment Practices Liability

- Policy is in place to provide financial protection for claims alleging:
 - ✓ Wrongful Termination
 - ✓ Harassment
 - ✓ Discrimination
 - ✓ Retaliation
 - ✓ Other Workplace Torts

Current Observations

- National Origin Discrimination – many reports in general and in workplace.
- Age Discrimination – i.e. sending home all workers over 60?
- Health Condition Discrimination – i.e. anyone with immune deficiencies? Specific medical conditions? Raises HIPAA violation questions as well.
- When creating policies and procedures related to managing health risk in your workplace, you cannot single-out individuals based on any protected class:
 - ✓ Sex / Gender and Sexual Orientation
 - ✓ Race
 - ✓ Color
 - ✓ Age
 - ✓ Religion
 - ✓ National Origin
 - ✓ Disability
- Rather . . . implement CDC guidelines and recommendations based on threat levels. Check daily.
- Remote Workforce - Harassment, Discrimination, and Retaliation in the Workplace – all still apply while working from home and communication and engagement rules still apply.



Cyber and Professional Liability

Cyber Risk – Increased First Party Exposures & Claims from COVID-19

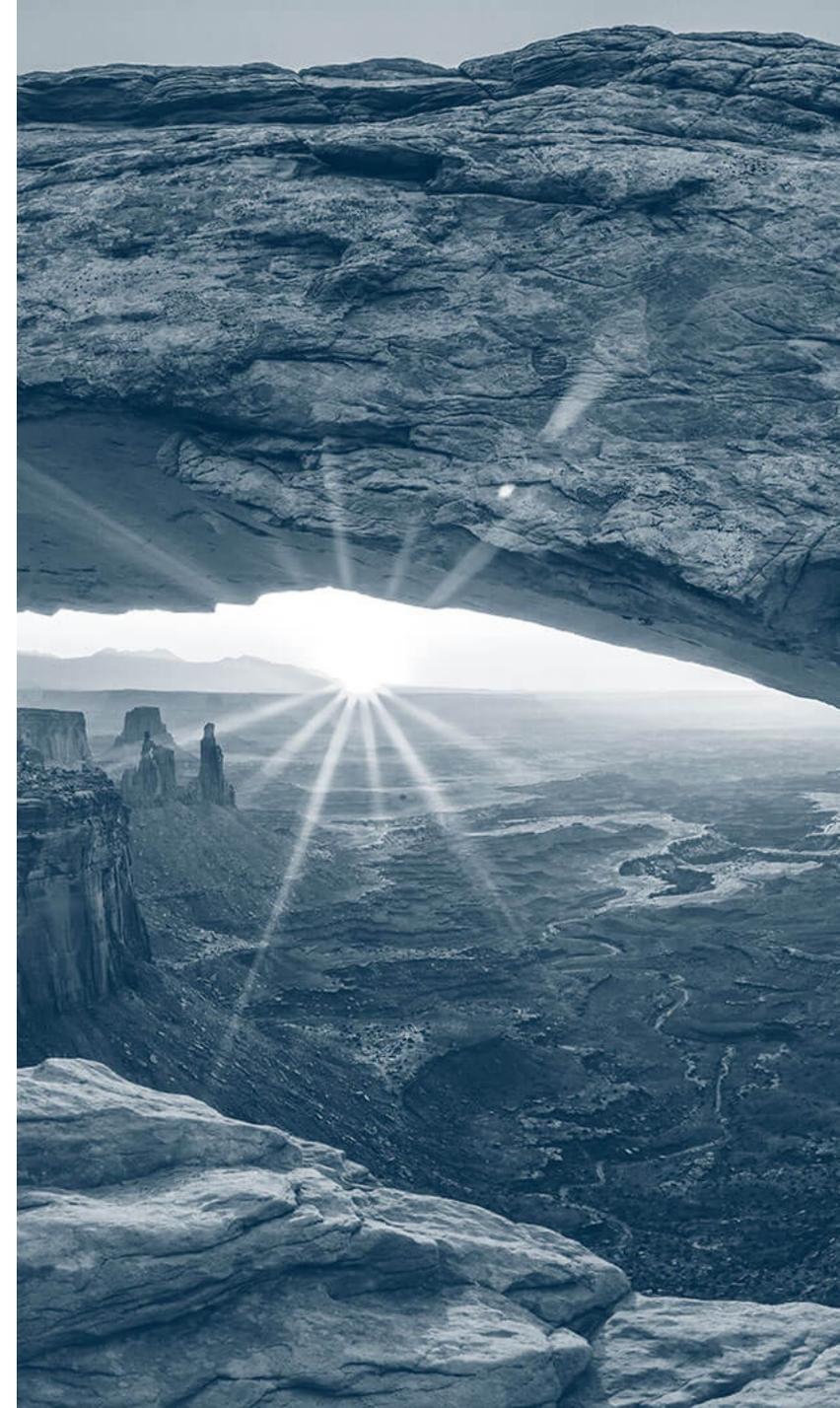
- Extortion & Ransomware – increase exposure from Work-From-Home workforce, insufficient network security in the home, on the device
- Phishing – Stimulus Check Fraud, IRS Scams
- Network Interruption (First Party) – increased online shopping, activity
- Lost / Stolen Hardware

Cyber Risk – Third Party

- Network Capacity / Vulnerabilities
- Privacy-related – New/ additional concerns regarding onsite health screenings
- PCI Compliance; Regulatory

Other Professional Liability – Examples: Financial Institutions, Healthcare, Government/ Public Entities, Educational Institutions, Insurance and Financial Institutions; Real Estate

- Allegations of Errors or Omissions in rendering, or failing to render, professional services relating to, or as a result of, COVID-19
- Most policies have Bodily Injury and Property Damage Exclusions



Total Cost of Risk

Re-Assess Insurance Needs

- Prioritize (compulsory, contractual, strategic)
- Adjust potential for changes; adjust goals; endorse changes

Consider Cash Flow

- Examine installment plans, premium financing
- Accrue for audits, retro adjustments, dividends, renewal rate changes

Re-visit Risk Management Techniques

- Selectively retain, transfer, and eliminate risks
- Utilize free and low-cost services from broker and insurers

Monitor and Adapt

- Record details of all losses, extra expenses, new revenue streams
- Re-allocate resources and responsibilities
- Update strategies to evolve with regulatory guidance, legislative changes, industry best practices, new insurance offerings or restrictions, and economic factors

Mitigating Premiums

In response to the COVID-19 pandemic, many insurance companies are taking steps to address the reduced cash flow of their clients

Insurance Company Assistance

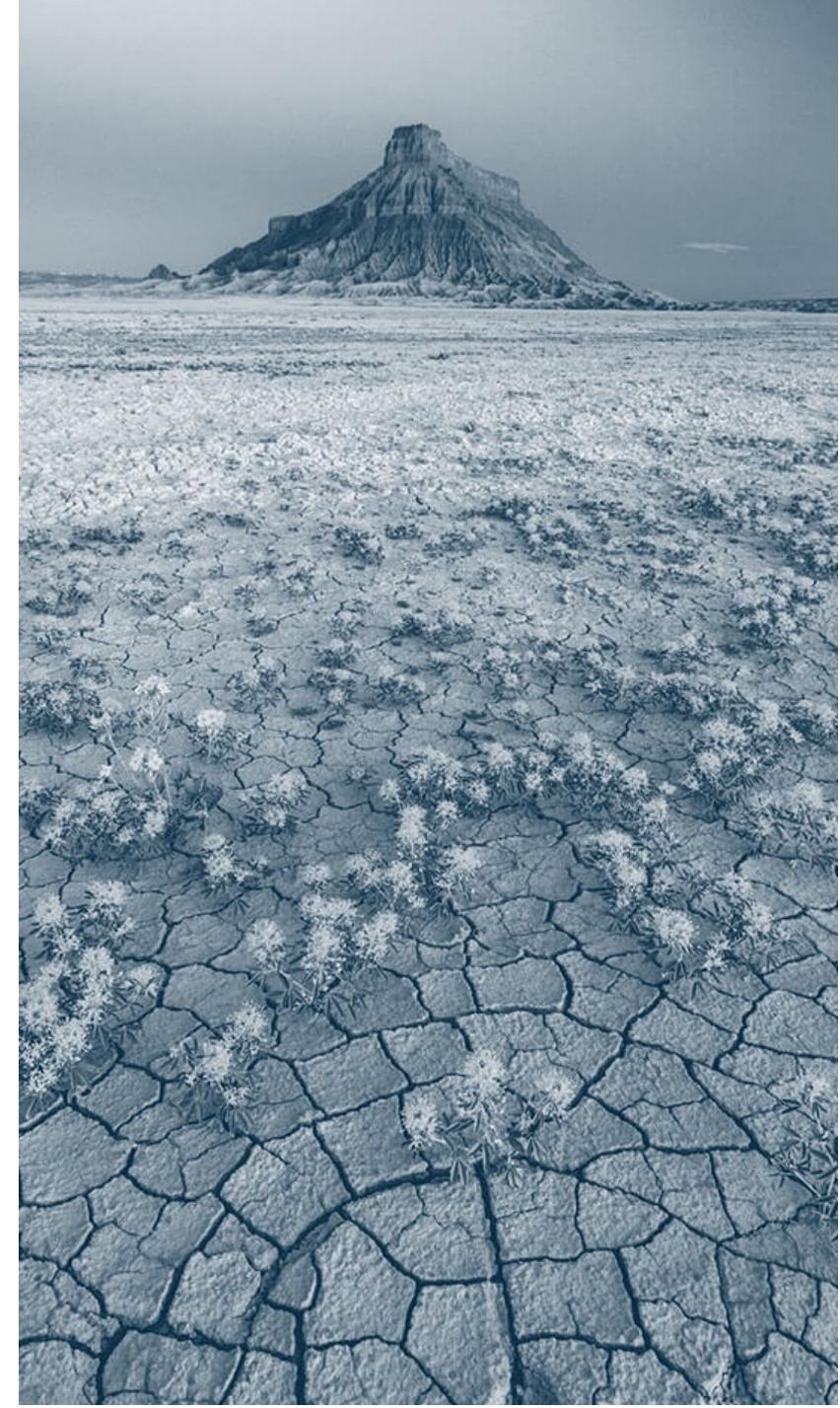
- Extending payment deadlines and delaying policy cancellations beyond May 2020
- Offering flexible payment terms and accepting credit/debit card payments
- Returning a portion of the premiums on Personal Automobile insurance in April and May
- Reducing sales and payroll exposures for upcoming policy renewals

Premium Payment Strategies For Insurance Consumers

- Premium Finance options
- Request premium adjustments for reduced driving, payroll and revenue exposures

State Regulatory Action

- California has already ordered financial relief for consumers with insurance where the risk of loss has fallen because of COVID-19



Alternative Risk Financing

Trade Credit

- Revenue/ cashflow protection
- Triggered by failure of customer to pay per terms of credit agreement
 - Rent/Mortgage/Debt payment forbearance – The Domino Effect
- Underwritten to customers' risk profile

Parametric

- Can be used for traditional risks, as well as more difficult-to-place risks
- Underwritten to indexed data measured by authoritative third party (e.g., USGS; National Weather Service)
- Coverage trigger typically set by time and/ or distance from indexed/ measured event
- Price set per unit of insurance; insured ma purchase multiple units

Captives

- Premiums are paid to insurer formed by the insured(s)
- Overhead costs; third party management
- Diligence required in setting reserves, premiums
- Can be used for traditional risks, as well as more difficult-to-place risks

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Disclaimer – Coverage Intent and Claims Analysis

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THANK YOU

Workplace Reset

Mitigating risk by navigating a safe return to the office and redefining a new way of work

Workplace Strategy & Innovation

May 2020

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Mitigating risk for a safe return

Phased approach

Phase 1

Prepare for a Safe Return to Work

1-3 month - phased

- Define the Capacity / Phasing & Staggering
- Leverage WFH and master Distributed Work
- Communicate & Engage
- Introduce New Behaviors
- Build Employee Trust and Engagement

Phase 2

Re-imagine your Workplace

18-24 month

The Purpose of Place

Collaboration/Innovation
Sense of Belonging
Building Community
Flexibility and Choice
Health & Well-being

Mitigating risk for a safe return

Questions from Leaders

People

- Who returns and when?
- Is Working from Home, working? How do we know? What can improve

Workplace

- How many people 'fit' in current space considering social distancing?
- What spaces change do I need to make for distancing and hygiene?
- What cleaning and building operations practices should we consider?

Technology

- What new technologies can help us improve safety?
- Support a distributed work force?

Business Practices

- What management practices will need to be altered?
- How do we engage our people and maintain our culture regardless of "where we work"?
- Are our employees coping? How do we keep them safe and engaged at home?



Mitigating risk for a safe return

Prepare yourself for a new reality



Mitigating risk for a safe return

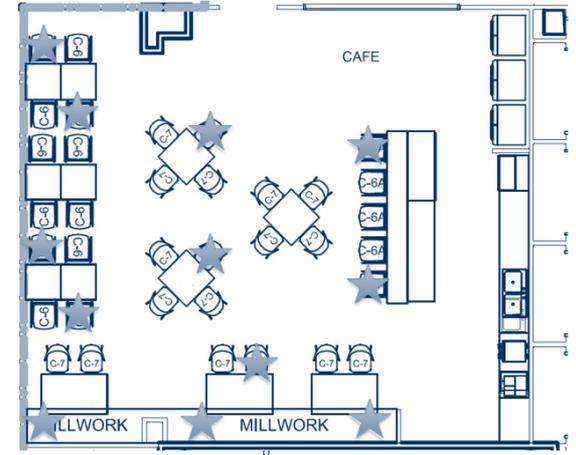
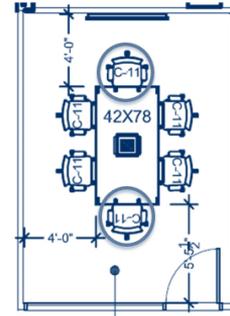
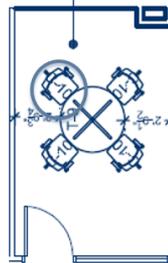
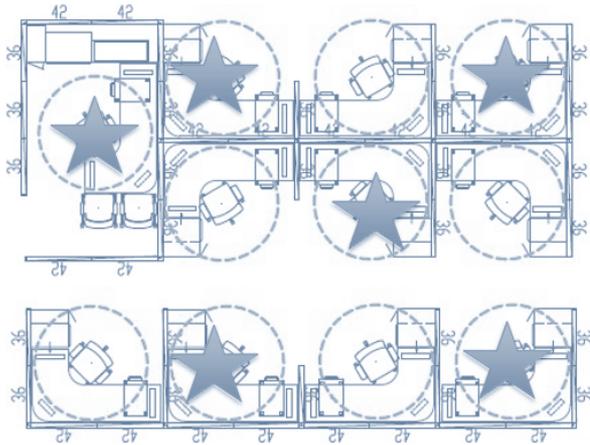
Understanding Your Capacity





Mitigating risk for a safe return

Understand the Reality of your Workplace Capacity (40-60% less)



Pre-COVID



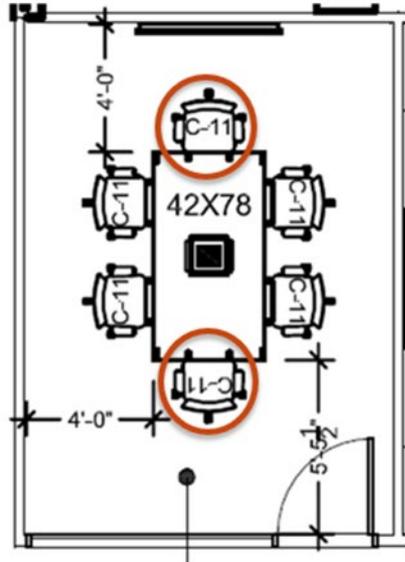
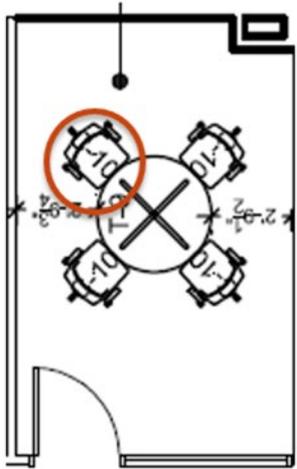
Post-COVID



40-60%
capacity depending upon layout

Mitigating risk for a safe return

Rethink Meetings



Understanding the global Work from Home Experiment

((()))
GLOBAL
LIVE WEBINAR

WORKPLACE ADVISORY | OCCUPIER SERVICES

Real-Time Data
to Navigate the
Post-COVID-19
Workplace

THU | 23 APRIL 2020

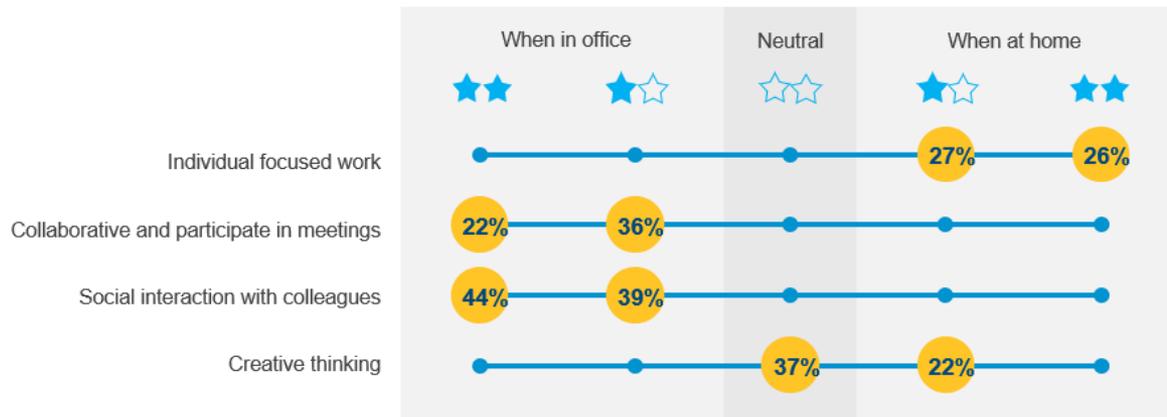
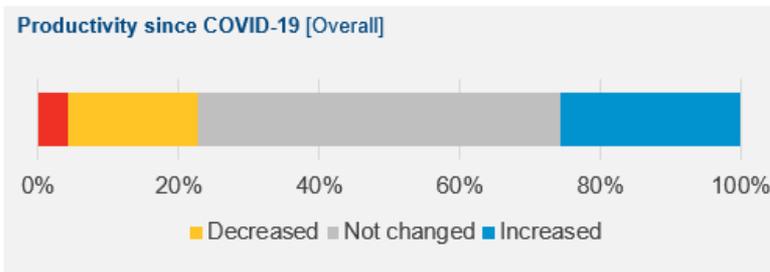
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Findings: Work from Home Experience

54% indicated productivity did not change.

22% indicated a productivity decreased.

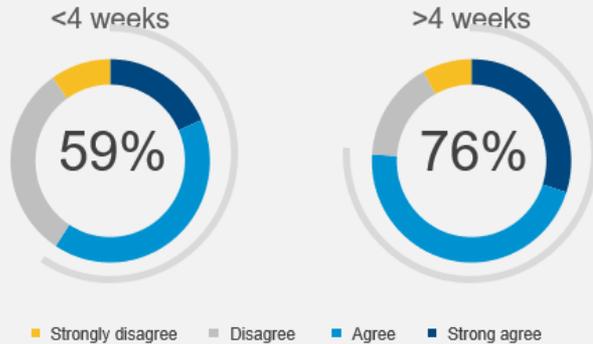
24% indicated an increase since working from home due to COVID-19.



Teamwork

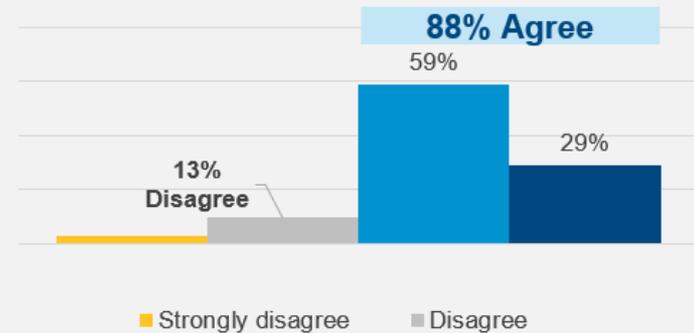


My work-life balance has improved [by Duration of WFH]

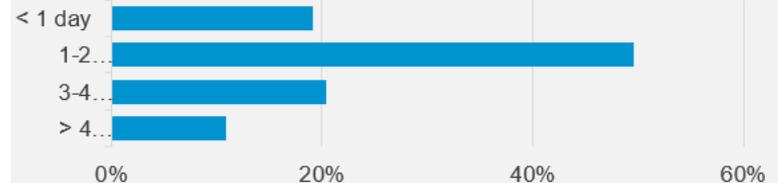


In average, **62%** of the respondents indicate that their work/life balance has improved since working from home.

Manager is able to manage virtually [Overall]



Working from home after COVID-19 [Overall]



Leveraging your WFH Experience

Collect and Assess

- How are people doing?
- Challenges?
- Opportunities?
- Desire / expectations?



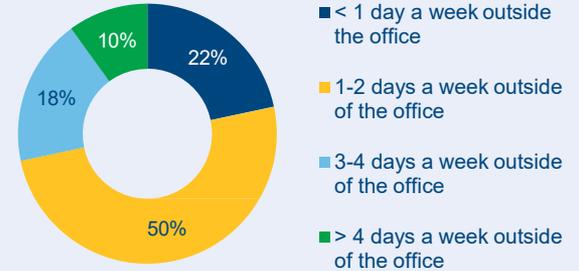
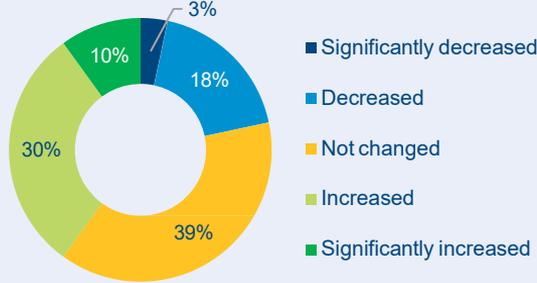
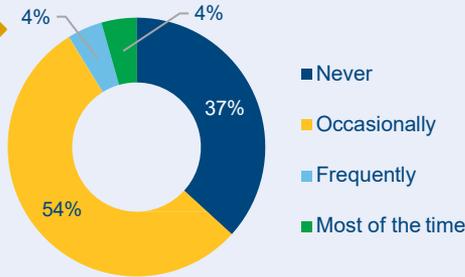
Work-from-Home Findings

Did you work from home before COVID-19?

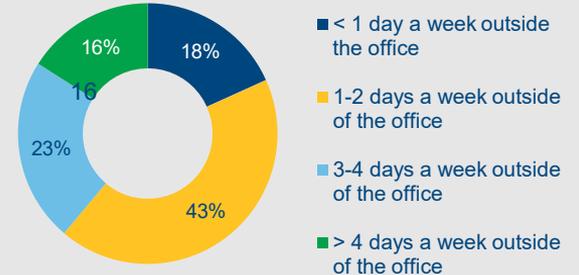
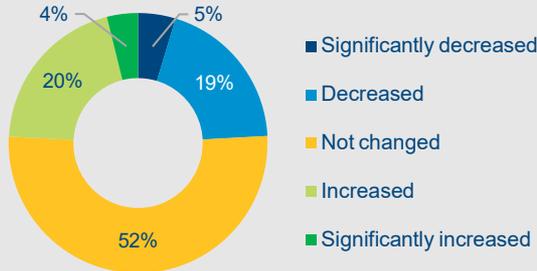
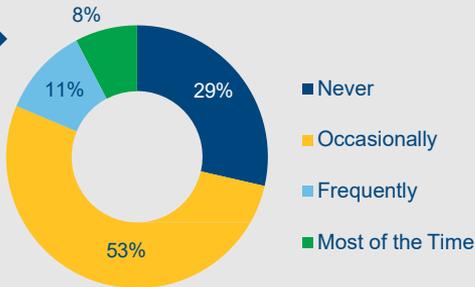
Since I began working from home due to COVID-19 my productivity has:

How do you feel about working remotely in the future after the COVID-19 situation?

YOUR INSIGHTS



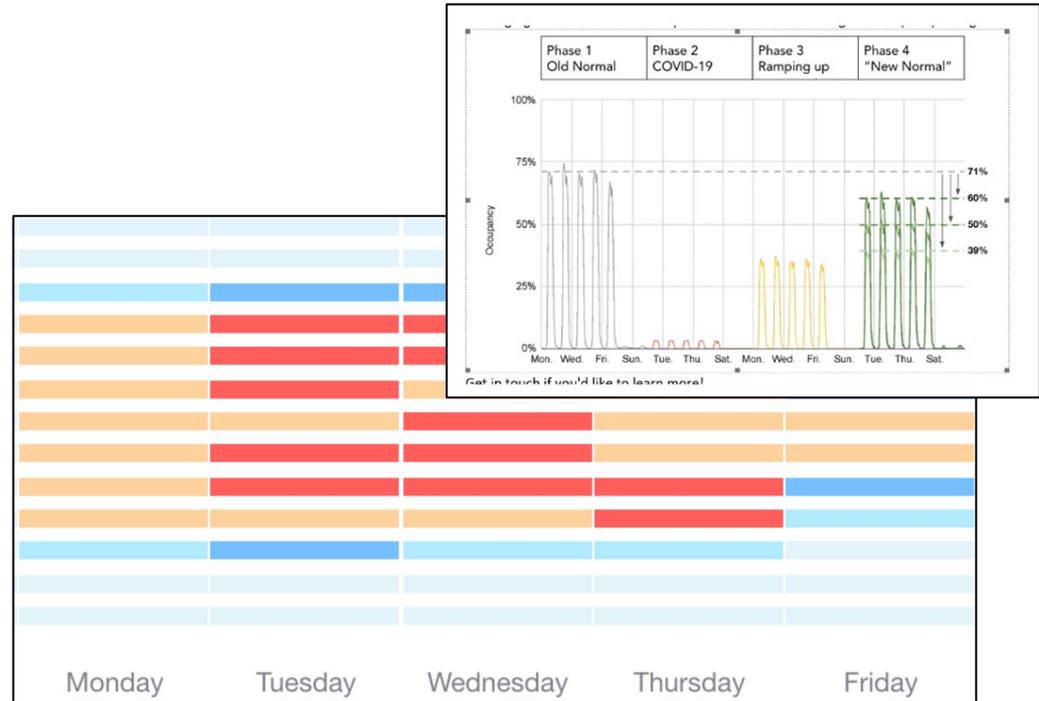
NORTH AMERICA



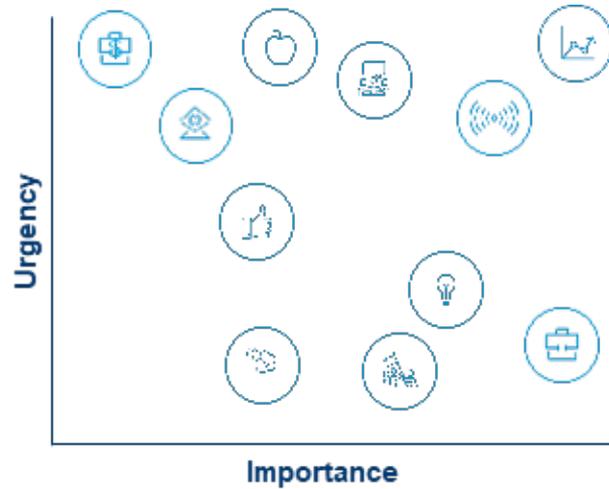
Mitigating risk for a safe return

Managing Density – Phase, Stagger & Choice

- Essential on-site?
- High Risk – off site?
- Candidates to WFH?
- Manage the density
- How will this inform the evolution of the workplace?



Developing your Strategy



Business Expansion:

Tech Solution / Agile teams – These team may work in the office, three scheduled days each week.

Financial Restructuring:

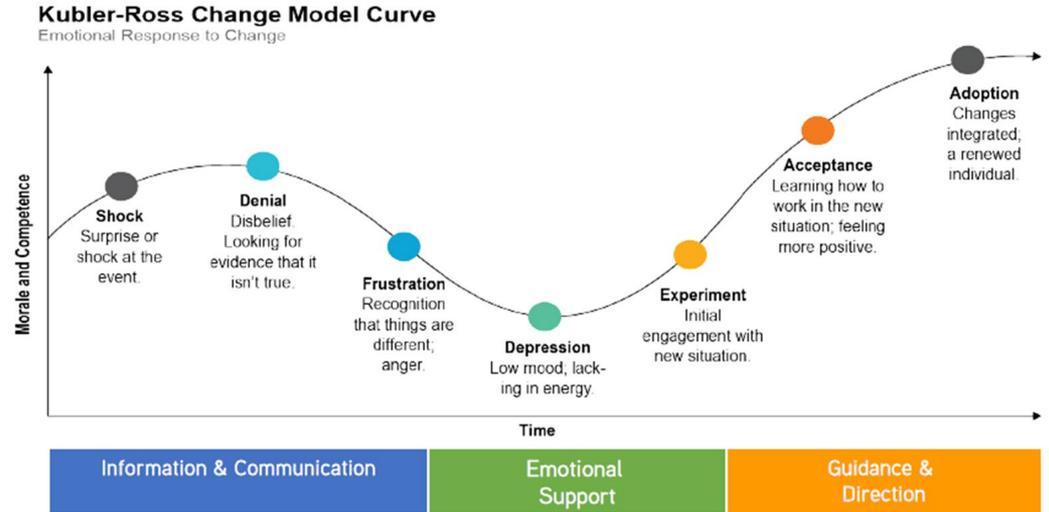
On a rotating schedule, the 40% of the finance team and key consultants may work in the office 3 days per week.

Business as Usual:

100% will continue working from home until further notice or a vaccination is publically available

A Culture of Safety

- Awareness of the Change Curve
- Provide Choice
- Proactive & Clear Communications
- Focus on Employee Health & Well-being



Preparing for a Safe Return



Workplace Preparation

1. Arriving At Your Building
2. Entering/Exiting Your Space
3. Navigating Your New Workplace



Arriving At Your Building

Are you in communication with your Landlord and Property Management Company regarding health & hygiene in building common areas? Are touchless technologies being considered/utilized?

- Guidelines for main lobby, elevators, stairs, bathrooms, building amenities
- Visitor allowance & protocols
- Elevator lobby (who is managing what?)
- Suite entrance & reception area
- Communication and Trust between Landlords & Tenants is extremely important going forward



Entering/Exiting Your Space

What protocols will you have in place for when employees or visitors enter/exit your space?

- Signage/video guidelines for employees & visitors
- Hand sanitizer & masks at entrance
- Sign-in & voluntary entrance requirements
- Stagger employee arrival/departure time



Entering/Exiting your Space

What protocol's will you have in place for when employees or visitors enter/exit your space?

- Temperature Screening/Testing
- Education & training for receptionist(s) to perform tests and to monitor symptoms
- Protocol & guidelines if someone is exhibiting COVID-19 symptoms (i.e. fever)
- Healthcare professional contact
- Wellness/COVID room near reception
- Installation of temporary clear plastic panel barrier to provide separation



Navigating the New Workplace

Protocols & guidelines for navigating the new workplace

- Circulation signage/instructions
- Face mask & glove guidelines
- Strict guidelines to NOT enter other employees work areas
- Markers on floors with arrows & 6' distance
- Leave doors open to reduce touching door handles



Navigating the New Workplace

Protocols & guidelines for navigating the new workplace

- Convenient locations of disinfectants
- Enhanced and visible janitorial services
- Showcase the maximum occupancy in community areas (meeting rooms, kitchens, breakroom)
- Remove chairs, markers, coffee stations, water & soft drinks that the company may provide
- Use of paper plates, cups, bowls & disposable utensils



NO MORE THAN
FOUR PEOPLE IN THE
BREAKROOM AT ONCE

COMMUNICATE, COMMUNICATE, COMMUNICATE

- Engage employees and keep them informed during virtual town halls, microsites (i.e. protocols, FAQ, tips, etc.)
- Convey messages focused on health and well-being
- Make cleaning visible to employees & visitors to reduce stress and build confidence in the company
- Having a plan and structure will help empower employees & help everyone feel safer



Virtual tour

Examines 15 space types

5 categories:

1. Design considerations
2. Navigating the space & communication
3. Employee behavior
4. Technology
5. Hygiene & cleaning

Specific to your space

Nominal fee

Fast – 48 hours



Immediate recommendations, cost and timing impacts

Back to Work NAVIGATOR 200 Granville Street, 19th Floor, Vancouver, BC

Suite or Office Lobby



ABC Company

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Design

1. Remove or block off soft seating in lobby to inhibit gathering or lingering in the space, especially upholstered seating.
2. Install temporary clear plastic/glass barriers at the reception desk to separate visitors from receptionist.
3. Longer term - Consider installing anti-microbial fabrics and surface coverings.

Technology

1. Consider technology that keeps track of how many employees are on the floor to manage population density and aid in directing visitors.

Communication/ Navigation

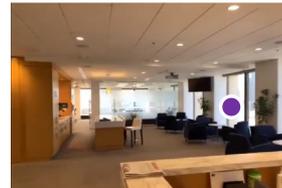
1. Post rules for visitors about distancing, hand washing and sanitizing, one-way navigation of corridors, wearing of masks (if required) and other floor-specific rules.
2. Put marks on the floor to indicate safe queuing distances in the lobby.
3. Be able to direct people to the wellness room that is located close to the lobby.
4. Post visible floorplans to show where teams are located as well as first/aid, wellness rooms, sanitation stations, etc.

Behavior

1. Educate receptionist to know what to do after interacting with a person who exhibits COVID-19 symptoms. Establish a plan with your partner health care provider or health department on how the person, and those exposed, will be removed from the premises and treated.
2. Bar access by visitors exhibiting symptoms or illness.
3. Consider a consent form, signed by visitors, that declares they are free of listed symptoms.
4. Place hand sanitizer dispensers in prominent places around the workplace.
5. Limit circulation through the office by visitors and non-essential personal.

Hygiene & Cleaning

1. Have hand sanitizer available at the reception desk.
2. Clean touchable surfaces regularly throughout the day, including the reception desk and elevator buttons.
3. Pre-order and store sufficient PPE supplies, including tissues and hand sanitizer, for floor occupants.
4. Have masks available for anyone who develops respiratory symptoms.



3

Colliers Occupier Services | Work Forward | Confidential Document

Cost & Timing



200 Granville Street, 19th Floor, Vancouver, BC

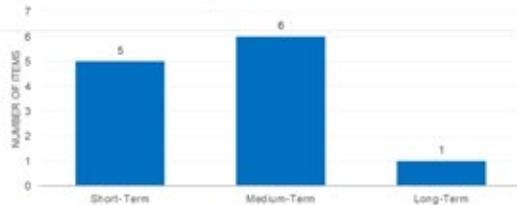
ABC Company



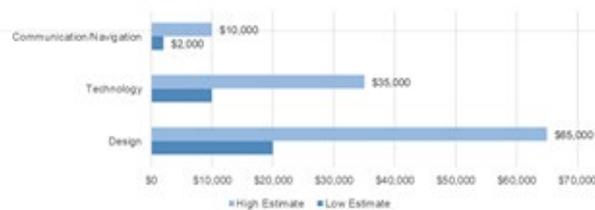
Order of Magnitude Cost & Timing

Work Area	Short-Term (<30 Days)	Count	Medium-Term (30-60 Days)	Count	Long-Term (90 Days+)	Count	Quantity	Low Cost	High Cost	Extended	
										Cost Low	Cost High
Building Lobby	Hand Sanitizing Station Wall mounted	1					6	\$70	\$110	\$420	\$660
Building Lobby	Touch-free Hand Sanitizing Station w/floor stand	1					8	\$230	\$400	\$1,840	\$3,200
Building Lobby	Sanitizing Wipes Station	1					8	\$100	\$250	\$800	\$2,000
Suite Lobby			Touchless door openers	1			8	\$500	\$1,500	\$4,000	\$12,000
Suite Lobby					Potential relocation of wellness room	1	1	\$2,500	\$10,000	\$2,500	\$10,000
Suite Lobby	Directional path and 6ft distance signage	1					1	\$500	\$2,000	\$500	\$2,000
Conference Room			Touchless door openers	1			8	\$500	\$1,500	\$4,000	\$12,000
Cafe & Break Area			Touchless sinks	1			2	\$750	\$1,500	\$1,500	\$3,000
Enclosed Offices	Return all offices to single person			1			30	\$500	\$1,500	\$15,000	\$45,000
Open Office Workstations			36" Workstation plexiglass panels	1			25	\$225	\$375	\$5,625	\$9,375
Open Office Workstations	Directional path and 6ft distance signage	1					1	\$1,500	\$7,500	\$1,500	\$7,500
Enclosed Huddle Room & Phone Booths			Touchless door openers	1			8	\$500	\$1,500	\$4,000	\$12,000

Timing of Retrofit Items

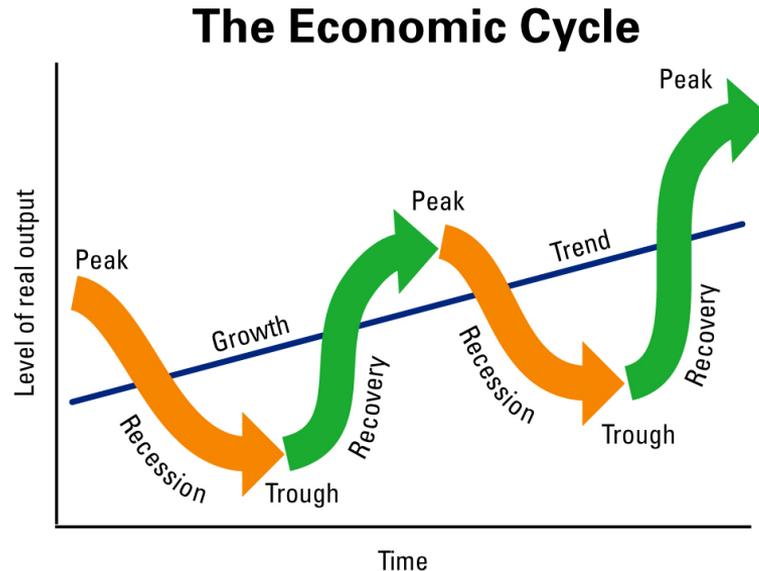


Order of Magnitude Costs



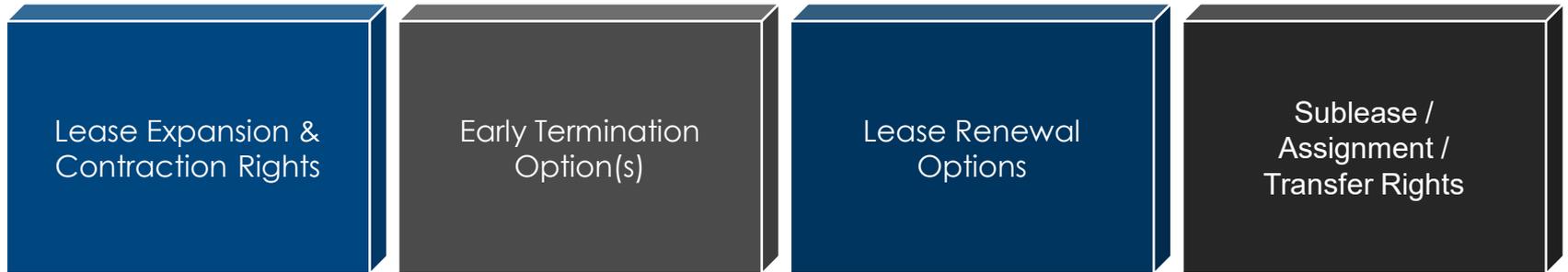
Looking Forward – Business Planning

- While the Coronavirus is a new type of disrupter, it is normal for businesses to experience the highs and lows of the economic life cycle.



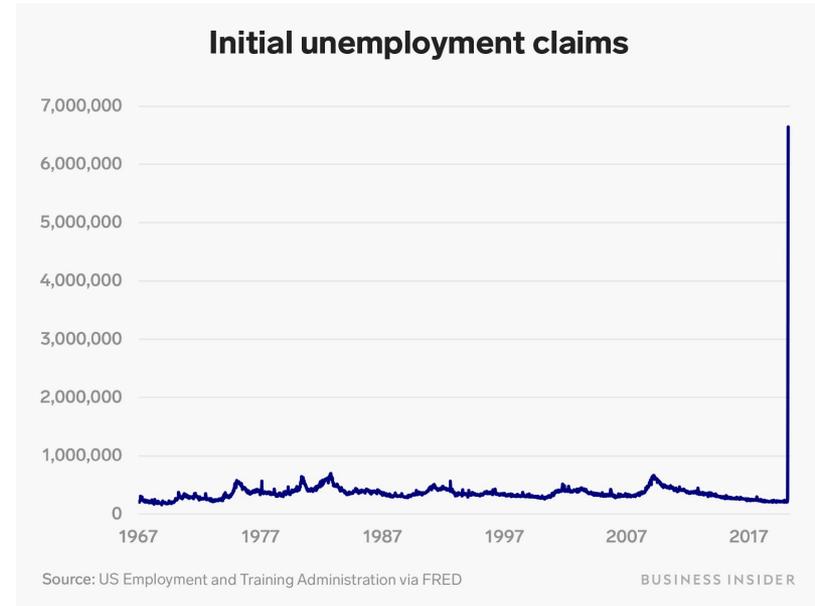
Looking Forward – Business Planning

- It is now even *more critical* for companies to procure rights that allow for maximum flexibility and control of space



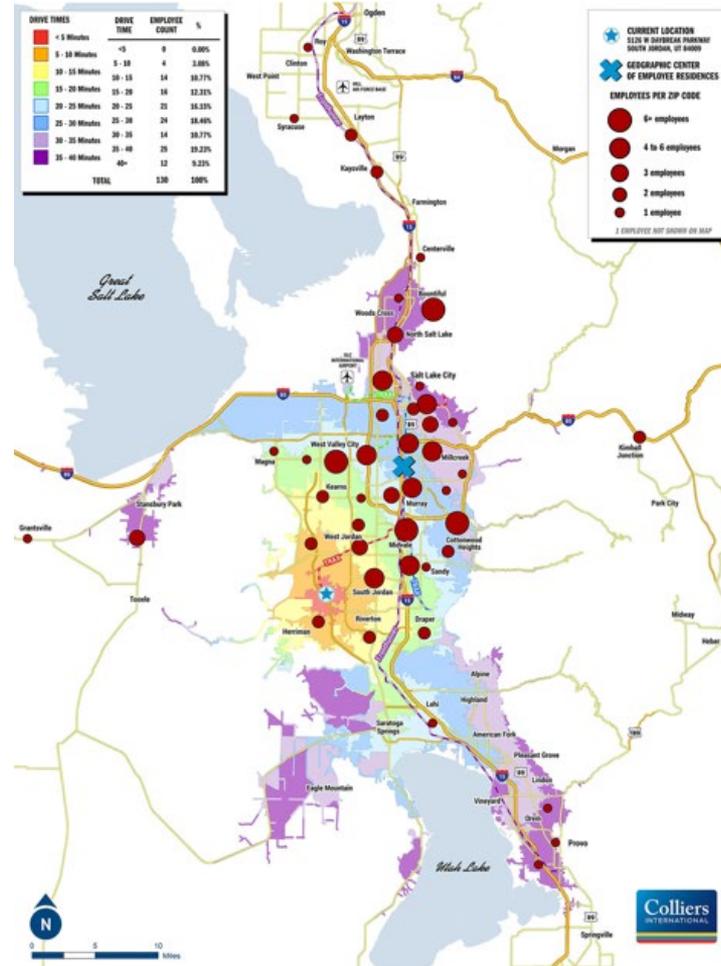
Looking Forward – Business Planning

- Additionally, this pandemic could have lasting impact on the following:
 1. Site selection
 2. Access to labor
 3. Competition



Looking Forward – Business Planning

- Case Study



Additional Considerations

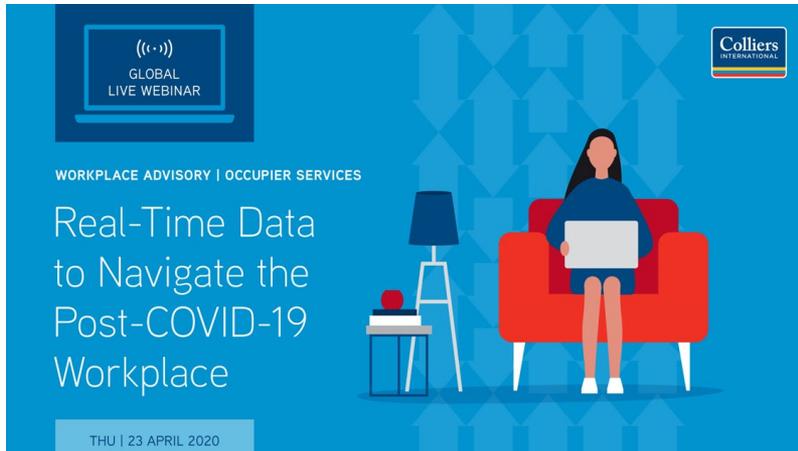
Future footprint & use of facilities:

- The Future of the Business Headquarters
- Multiple Regional Locations versus One Location
- The Future Use of Office Buildings

The Real Estate Market and Strategies for Reducing Costs:

- Rent Forbearance
- Blend and Extend (Trading Lease Term for free rent or contraction/expansion)
- Property & Lease Rate Values

Follow-up



GLOBAL LIVE WEBINAR

WORKPLACE ADVISORY | OCCUPIER SERVICES

Real-Time Data to Navigate the Post-COVID-19 Workplace

THU | 23 APRIL 2020

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4/22/2020

The Great Return: Making the Workplace Ready

The Great Return: Making the Workplace Ready

knowledge-leader.colliers.com/editor/the-great-return-making-the-workplace-ready/

By Knowledge Leader Editor

April 22, 2020



Companies are turning their attention to how their employees will return to the workplace after abruptly being made to work from home. COVID-19 initially created challenges as the global workforce quickly pivoted to working remotely. While there will be long-term impacts to the future of workplace, our focus is now turning to the immediate concern: How will we all return to the workplace? The date of the return is still uncertain. The U.S. Chamber of Commerce has said, "returning to work will be gradual, phased-in and will vary by factors such as location, sector, business type or size, and the health status of workers. It also will require continued social distancing, expanded use of personal protective equipment, and other counter-measures." Employers are asking questions about the changes they need to make to ensure that the post-pandemic workplace is safe, functional and most importantly, builds trust with their employees. Questions like:

- How will our recent experience with working from home impact the post-COVID workplace?

<https://www.printfriendly.com/pige/Adtbb>

1/5

Resource Materials

[Working forward Together / Resources](#)

Take our Global Work-from-Home Experience Survey

<https://bit.ly/2WFluGs>.

Distributed Teams
Guidance for success
Authored by Colliers Workplace Advisors,
Robyn Baxter and Sarah Bramley in Calgary

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| Q & A

Thank you
for joining us!