



CRITICAL BUSINESS ISSUES TO CONSIDER

If your business, or one or more of your major customers' or suppliers' businesses, have been or could be adversely impacted by the effects of the Coronavirus outbreak, you should consider taking the following proactive actions:

1. Review Insurance Coverage:

Most standard business insurance packages include "business interruption" coverage. Business interruption insurance is designed to replace income lost in the event that a business is halted for some reason, such as a fire or a natural disaster. It can also cover government lockdowns or mandatory curfews or closings such as those becoming more widespread as a result of the Coronavirus. In addition to lost income, such coverage may also include items such as operating expenses, a move to a temporary location if necessary, payroll, taxes, and rent or loan payments. Since the language that addresses the terms of business interruption coverage and exclusions can be lengthy and complex, it can be helpful to have your policy reviewed by a qualified expert.

2. Review Critical Contracts:

It is quite common for certain types of contracts, such as supply contracts that require future performance on the part of one or both parties, to include a contract provision that allows a party to suspend or terminate the performance of its obligations when certain circumstances beyond their control arise, making performance inadvisable, commercially impracticable, illegal, or impossible. Such provisions are most often referred to and appear under a "force majeure" clause of a contract. If disaster strikes or the unanticipated occurs beyond the control of a party, such in the case of Coronavirus, a force majeure clause may excuse one or both parties from performance of their contractual obligations without liability to the other party. Determining which types of circumstances will be covered by the force majeure clause is obviously essential. Standard provisions often cover natural disasters like hurricanes, floods, earthquakes, and weather disturbances sometimes referred to as "Acts of God." Other covered events can include war, terrorism or threats of terrorism, civil disorder, labor strikes or disruptions, fire, disease or medical epidemics, pandemics or other outbreaks. Such provisions can also place certain obligations on a party seeking to take advantage of excused performance such as undertaking reasonable actions to minimize potential damages to the other party. As with insurance coverage, it can be very helpful to have the assistance of a qualified expert in reviewing contracts critical to the survival of your business.

3. Communications:

Once you have reviewed the terms of your business insurance coverage and critical contracts, you will be in a much better position to effectively communicate with your insurers, suppliers, customers, vendors, creditors and other parties with whom your business has relationships concerning the uncertainties facing your business and the businesses of those with whom you have significant ongoing relationships. Whether it's placing an insurance carrier on notice of or making a business interruption insurance claim, advising another party of your intention to exercise your rights under a force majeure clause of a contract or being

prepared for another party with whom you have an important relationship to do so, or effectively communicating with a lender, landlord or other creditor to productively address disruptions to such relationships are all critical to minimizing losses and ensuring the survival of your business. As with the interpretation of insurance policies and other contracts, input from experts can be very helpful in developing effective communications and providing advice concerning the parties to whom such communications should be directed.

Bulkley Richardson launched a COVID-19 Response Team to address issues critical to businesses and their employees. Please contact a member of the Response Team or call **413-272-6200**.

Response Team Members:



Scott Foster
Business/Cybersecurity

✉ sfoster@bulkley.com
☎ 413-272-6296



Mark Cress
Business/Banking and Finance

✉ mccress@bulkley.com
☎ 413-272-6255



Mary Jo Kennedy
Employment

✉ mkennedy@bulkley.com
☎ 413-272-6242



Ryan Barry
Business/Banking and Finance/School, Colleges and Universities/Health Care

✉ rbarry@bulkley.com
☎ 413-272-6264



Judge John Greaney
Strategy

✉ jgreaney@bulkley.com
☎ 413-272-6277



Sarah Willey
Business/Employment

✉ swilley@bulkley.com
☎ 413-272-6228



Christopher St. Martin
Employment/Teleservices

✉ cstmartin@bulkley.com
☎ 413-272-6278