

Sweeney Mason

LLP

Coronavirus (COVID-19) Update:

Amended Shelter-in-Place Order, Social Distancing Protocols, and Mask-Wearing

On April 17, 2020, the County of Santa Clara's Public Health Department issued detailed guidance strongly urging all individuals to wear face coverings when out of their homes to perform essential activities. The guidance, available [here](#), builds on the recommendations previously issued by the Public Health Department. All individuals are strongly urged to cover their nose and mouth with a face covering, such as a bandana, scarf, towel, or other piece of cloth or fabric, when leaving home. Face coverings are *critical* for essential activities such as doctor appointments, grocery shopping, pharmacy visits, riding on public transit, and any other situation where proper social distancing protocols are not possible.

Face coverings should not be medical masks or other similar products but include any type of breathable material that will cover nose and mouth. Medical masks, such as N-95 and surgical masks, are strongly discouraged for general use.

As a general reminder, on March 31, 2020, seven Bay Area jurisdictions, including Santa Clara County, extended their existing Shelter-in-Place orders through May 3, 2020 in order to slow the rate of the coronavirus spread, prevent deaths, and stop the health care system from becoming overwhelmed. Santa Clara County's updated order is available [here](#).

As detailed in a previous news alert, available [here](#), the amended Shelter-in-Place order added some clarifying language around essential businesses and activities and added some new directives.

Of particular note, essential businesses must develop and implement a Social Distancing Protocol. The Social Distancing Protocol must be posted at or near the entrance(s) of the facility, and shall be easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. The county has provided a template, available [here](#).

In addition to implementing a social distancing protocol, companies are advised to comply with OSHA's recommendations for preparing a workplace for coronavirus, available [here](#). Failure to do so will likely be viewed as a failure to take all reasonable precautions to protect employees from coronavirus exposure, potentially triggering claims of serious and willful misconduct in the event an employee dies from COVID-19 and claims to have contracted the virus at work. The CDC has also issued helpful guidance, available [here](#).

Potential workers' compensation liability in California will be based on a detailed and focused assessment of the particular facts and circumstances related to each individual's workplace and the nature of the mechanism(s) of exposure for each employee. Since each case of an alleged industrial coronavirus injury must be decided upon its particular facts, there is no comprehensive formula available for determining whether a particular case is compensable or not. Therefore, we recommend compliance with OSHA and CDC guidance.

Sweeney Mason LLP continues to monitor the rapidly evolving situation pertaining to the COVID-19 virus and resulting legal issues. We are finding that the laws and orders released by the Federal, State, County and Local governments are, in some cases, ambiguous, vague and/or contradictory, resulting in some confusion among a broad cross-section of our clients. At this juncture, and given the fast-paced changes to the applicable orders and mandates, as well as the ambiguities inherent in the orders there is no "one-size-fits-all" approach to COVID-19-related legal matters. For example, several Bay Area Cities impose their own emergency orders that mirror but in many cases are more stringent than the Statewide or County orders. As a result, contracts, employment issues, ongoing lawsuits and other matters impacted by the COVID-19 outbreak should be analyzed on a case-by-case basis and with the assistance of Sweeney Mason.

Sweeney Mason LLP is in daily contact with governmental offices and various trade organizations to monitor the developments surrounding the COVID-19 outbreak. While much of our personnel continues to work remotely, Sweeney Mason is fully operational and will continue

to assist our clients and community with their legally related issues and concerns during this uncertain time.

For more information, please contact our employment team at 408-356-3000 or via email: Roger Mason at rmason@smwb.com or Rachael Brown at reb@smwb.com.

The following links may assist you in evaluating some of the issues you may have. Stay safe!

DOL Publications:

[FFCRA FAQs](#)

[FFCRA Required Notice](#)

IRS Guidelines:

[FFCRA Tax Credits](#)

[Employee Retention Tax Credits Under CARES Act](#)

CDC Guidelines:

[Interim Guidance on Risk Assessment for Individuals with Possible COVID-19 Exposure](#)

[Interim Guidance for Businesses and Employers](#)

OSHA:

[Preparing Your Workplace for COVID-19](#)

California:

[Stay at Home Order](#)

[EDD COVID-19 Overview](#)

[EDD COVID-19 FAQs](#)

Santa Clara County:

[Updated Shelter-in-Place](#)

[Shelter-in-Place Order](#)

[Public Health Department FAQs on the Shelter in Place Order](#)



The information provided in this publication is general in nature and is not intended to answer every question that may arise under different fact situations and should not be relied on in the place of professional advice in a given case. If you have specific questions, please contact Sweeney Mason LLP.

SWEENEY MASON LLP's philosophy is that by educating our clients, and other businesses, about their legal obligations, including changes in the law, we best serve our legal goal of minimizing or preventing expensive litigation.

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