

COVID-19 & Force Majeure Provisions of Contracts

PUBLISHED ON
May 17, 2021

The COVID-19 pandemic has impacted individuals and businesses in many ways. For business owners and individuals entering into contracts, one way that COVID-19 has impacted business dealings is through force majeure provisions.

A force majeure provision specifies what should happen in case of an "act of God." A contract which contains a force majeure provision may excuse one party to the contract from performing its duties because of an unforeseen disaster. Before the COVID-19 pandemic, force majeure clause provisions and contracts typically included events such as natural disaster, fire, flood, war, armed conflict, or nuclear or chemical contamination.

COVID-19 has put a spotlight on these provisions. Depending on the industry, each party now has a different idea of what should constitute a force majeure event, which can be further tailored to whether the business is an essential service, a restaurant, a gathering or meeting place, or some other type of operation. Now, moving forward, businesses are forced to consider provisions which specifically list pandemics, epidemics, or other public health crises as a force majeure event.

While these provisions are not ideal for business owners, landlords and lenders, in particular, they can be used as an opportunity to build in more certainty as to what will happen if another event occurs during the term of the agreement that is out of the reasonable control of the parties.

Before entering into any contracts containing force majeure clauses, it is advisable to consult with an experienced business law attorney to understand the ramifications and impact of such clauses. Additionally, as businesses begin to enter into new contractual agreements with other businesses or clients, new agreements should include force majeure clauses that cover events such as the COVID-19 pandemic. These businesses should also consult with an experienced business law attorney to understand what should be included in these clauses and their ramifications.

WRITTEN BY:



Corey M. Lamoureux

Partner

Tel: (717) 703-0932

Email: clamoureux@barley.com