COVID and Counties: It’s Not Just a Horrible Disease – It Could Be Your Next Employee Lawsuit

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COVID-Related Lawsuits by State

• California – 335 lawsuits (44 federal, 294 state)
• New Jersey – 174 lawsuits (31 federal, 143 state)
• Florida – 143 lawsuits (96 federal, 47 state)
• New York – 121 lawsuits (64 federal, 57 state)
COVID-Related Lawsuits by Type

• Retaliation – 798
• Wrongful termination – 482
• Workplace safety – 386
• Discrimination – 363
Can We Require Vaccination?

• Short answer: YES!
• Lawyer’s answer: IT DEPENDS!
When Can We NOT Require Vaccination?

• Religious objection
• Legitimate medical reason

What’s NOT a Reason to Refuse Vaccination?

• “I don’t like vaccines”
• “I think it’s fake”
• “I think it’s dangerous (but I don’t have a medical reason)”
Restricting Off-Duty Conduct

• The CDC tells us some activity is dangerous – why can’t we prohibit our employees from doing it?
  • Congregating
  • Not social distancing
  • Not wearing masks
  • Certain travel
Why Not? The **First Amendment**, That’s Why!

- First Amendment protects “association”
- It’s not absolute, but government restrictions are closely scrutinized
- The restriction must further an important interest
- And be the least restrictive practicable
Special or Additional Protections

• Political Speech
• Religious practice
• Conduct associated with protected groups
QUESTIONS?

THANK YOU!

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