



Coronavirus:

Community Conversation on Association Impact

Moderator

Lori M. Anderson, FASAE, CAE, president & CEO,
International Sign Association

Panelists

Felicity Clancy, vice president, marketing communications and membership
Thomas File, Jr., MD, MSc, FIDSA, president
Infectious Diseases Society of America

Seth J. Fleischer, business development professional
Aon Affinity Nonprofits

Jeffrey S. Tenenbaum, Esq., managing partner
Tenenbaum Law Group PLLC

Robb Lee, chief marketing & communications officer
ASAE: The Center for Association Leadership



Coronavirus: Community Conversation on Association Impact

Topics to Cover

- Virus Update
- Meetings & Events – Insurance, Legal and Business Considerations
- Crisis and Ongoing Communication Strategies



NOVEL CORONAVIRUS (COVID-19)

What You Need to Know

Felicity Clancy

Vice President, Marketing Communications and
Membership

Infectious Diseases Society of America

Thomas File, Jr., MD, MSc, FIDSA

President

Infectious Diseases Society of America

IDSA RESPONSE TO CORONAVIRUS

- **Infectious Diseases Society of America (IDSA)** -- over 12,000 physicians, scientists and public health experts who specialize in infectious diseases
- Response to novel coronavirus outbreak has included:
 - Trained media spokesperson network across the country
 - Regular reporting on IDSA's Science Speaks blog
 - Online resource center for members and the public
 - Weekly podcast series featuring experts in infectious disease outbreaks
 - Regular contact with CDC, WHO, NIH to share information

www.idsociety.org/NovelCoronavirus



WHAT IS COVID-19?

- The 2019 novel coronavirus infection, also known as COVID-19, is a respiratory infection caused by a virus (new name of the virus is “SARS-CoV-2”)
- Coronaviruses are common. In fact, many ordinary colds are caused by coronavirus.
- COVID-19, identified in Wuhan, China in 2019
 - 99% of cases within China
 - Limited spread to other countries of travelers from China
- COVID-19 is actively being studied to determine how it is transmitted.
 - Most likely transmitted by droplets from an infected person’s cough or sneeze.
 - Unclear if it can be transmitted by touching a surface or object that has the virus on it and then touching your mouth, nose or eyes.



HOW DO I PROTECT MYSELF?

- The **risk to the general public** in the United States is considered **low** at this time.
- While there is currently no vaccine, the best way to protect yourself from COVID-19 is similar to how you'd take precautions against the cold or flu.
- Avoid close contact with people who are sick
- Cover your cough or sneeze with a tissue or the crook of your elbow, rather than your hands – and throw the tissue away immediately.
- Wash your hands often using soap and water for at least 20 seconds
- There is no need to wear a face mask if you are well and do not have symptoms.



HOW DO I KNOW IF I HAVE IT?

- Common symptoms can include fever, cough, and shortness of breath.
- People who have traveled in Hubei Province in China, or who live in the same household or have had intimate contact with someone with confirmed COVID-19, are at highest risk.
- If you have symptoms *and* are at high risk, call your health care provider immediately. Tell them about your symptoms and recent travel before visiting your doctor's office or health care facility in person. This will give your provider enough time to put infection prevention and control measures in place before your arrival.
- Don't travel, including using public transportation, and avoid contact with others.



WHAT NOT TO DO

- Do Not Panic Irrationally
 - CDC statement: Anyone in the US who has not traveled to China or been in contact with someone with a confirmed (or suspected) case in the last 14 days is at low risk
 - Consider relative risk: Risk is much greater in the US for flu
- Do Not Travel to China
 - Consider using technology to share/stream meeting content with affected presenters/speakers and attendees
- Do Not Use Face Masks (or encourage meeting attendees to do so)
 - CDC does not recommend for general public
 - Masks protect the sick from spreading germs but will not prevent you from getting sick (spread fear in meeting scenario)
- Do Not Assume That Anyone of Asian Descent Is More Likely To Have Coronavirus
 - Use common sense
 - Do not forget about the importance of inclusivity and evidence-based information

Source: National Foundation for Infectious Diseases: [nfid.org](https://www.nfid.org)



WHAT ARE THE EXPERTS DOING?

- Infectious disease physicians and scientists affiliated with IDSA, the U.S. Centers for Disease Control and Prevention, NIH, and the World Health Organization are working in several areas related to COVID-19, including:
 - Providing guidance to hospitals and health care providers
 - Working closely with local, state, national, and global partners to provide accurate information and clinical guidance
 - Providing resources and expertise to contain the outbreak
 - Researching diagnostic tests that may be able to better detect the disease
 - Studying the spread of COVID-19 to better understand how to protect the public
 - Scientists have begun working on a vaccine, but developing a vaccine that is safe and effective in human beings will take months.





Insurance Implications: Communicable Disease Outbreak Risk for Events

Seth J. Fleischer

Business Development Professional

Aon Affinity Nonprofits



Coronavirus: Legal Strategies for Associations

Jeffrey S. Tenenbaum, Esq.
Managing Partner
Tenenbaum Law Group PLLC
Washington, DC

Addressing the Meeting-Related Panic from a Legal Perspective

- Epidemics, natural disasters, strikes, terrorism, global crises – what happens to my meeting, conference or other event?
- How can we proceed with our event if no one will show up?
- Planned meetings and events have long dealt with situations arising beyond the control of the event site (e.g., hotel, convention center) and the event sponsor.
- Keys areas of focus are the **meeting contracts** and **insurance**.



Force Majeure Overview

- There is a difference between common law force majeure principles and force majeure provisions in meeting contracts, but it is the latter that controls if such a provision exists (and usually does); the latter will override the former.
- Force majeure: “overpowering or irresistible force.” It can mean acts of God or acts of third parties outside of the control of the parties to the contract. That being said, not all force majeure clauses are equal – far from it. The devil is in the details. While force majeure provisions are generally one of the least-negotiated provisions in hotel and convention center contracts, in situations like this, they are arguably the most important.
- Contractual force majeure clauses generally only excuse complete performance of contractual obligations if force majeure conditions exist, and generally only apply in situations where it is **impossible** – or sometimes, **commercially impracticable** – to perform under the agreement.



Model Force Majeure Contract Provision

- **Force Majeure:** The performance of the Agreement by either party is subject to acts of God, war, government regulation, disaster, fire, medical epidemic, strikes, terrorism or threats of terrorism, civil disorder, curtailment of transportation facilities preventing or unreasonably delaying at least 25% of Event attendees and guests from participating at the Association's Event, or other similar cause, including emergency or non-emergency conditions, beyond the control of the parties making it inadvisable, illegal, impossible, or commercially impractical to hold the Event, for the Hotel to provide the meeting and sleeping rooms or related facilities and/or services for the Association's Event, or for either party to fully perform the terms of the Agreement. The Agreement may be terminated without penalty and with performance fully excused for any one or more of these reasons by written notice from one party to the other.



Fear v. Law?

- A handful of cases of coronavirus are reported in a city where you are holding your conference. No state of emergency has been declared by the CDC or the WHO. You want to cancel the conference and terminate the agreement under the force majeure clause.
- It's 2003 and the SARS epidemic hits Toronto where you are holding your conference in two weeks. Both the CDC and WHO have declared a state of emergency in Toronto. Many of your attendees have canceled their registrations. You want to cancel the conference and terminate the agreement under the force majeure clause.



Standards of Law in Force Majeure

- Impossibility
- Illegality
- Commercial Impracticability
- Frustration of Purpose



Impossibility v. Impracticability v. Frustration of Purpose (Common Law v. Contract Provisions)

- Hotels, convention centers, and other event venues generally strongly favor language allowing termination without penalty *only* if it is *impossible* to host the event.
- Event planners should try to negotiate the inclusion of verbiage referencing *commercial impracticability* – meaning that some unforeseen event outside of the parties’ control that took place after the contract was signed has made it commercially impracticable for one of the parties to perform and fulfill its obligations under the agreement.
- *Frustration of purpose* means that an unforeseen event has undermined a party’s principal purpose of entering into the contract in the first place.



A Strong Force Majeure Provision

- In negotiating your next event contract, be sure to include verbiage to help protect your association from the next unforeseen event.
- See the model force majeure provision above. The details matter.
- While not common, one possible approach is to modify the force majeure clause to provide for partial termination of performance, as well as total termination. For example, if 25% of your anticipated attendees cannot attend due to travel restrictions, you would not be responsible for 100% performance under the agreement, but only for 75% performance. This can be very helpful in mitigating attrition penalties under the agreement(s).



A Strong Force Majeure Provision (cont.)

- Ideally, word the force majeure provision to include *commercial impracticability* and *inadvisability* – not just *impossibility*.
- In the agreements themselves, state the purpose of the meeting and other contingencies that can be detrimental to your event. This language can help support your *frustration of purpose* argument should something later occur.



My Contract is Already Signed, Now What?

- Read your agreement's force majeure provision carefully. Everything depends on the factual circumstances (e.g., CDC and/or WHO declarations). If the force majeure provision provides for *commercial impracticability* or *inadvisability*, you may have more room to negotiate.
- Poll your registrants to get a sense of how many may cancel their attendance. Without attendees or critical third-party vendors, you may have grounds to claim *frustration of purpose*. Even if the agreement does not provide for it, in certain limited circumstances, you may be able to assert such a legal claim based on these common law principles.
- Consult with your attorney.



What About Event Cancellation Insurance?

- Event cancellation insurance is very important but has its limitations.
- The four leading event cancellation insurance policies are Showstoppers (Aon), Expo-Plus (Mercer), HCC, and Beazley.
- As of mid-January 2020, coronavirus is now expressly *excluded* from coverage under all four of the leading event cancellation insurance policies.
- Many events are now uninsured because they did not bind their coverage “with payment in the insurance carrier’s hands” before the coronavirus exclusion was instituted around mid-January 2020, depending on the market. In other words, while they may have an endorsement extending **Communicable Disease** coverage, it will contain an exception for claims arising from coronavirus.
- In addition, separate from the exclusion for coronavirus, some event cancellation policies exclude coverage for **Enforced Reduced Attendance (ERA)**. In other words, if attendees can’t make it to the meeting because they are quarantined or can’t get a flight out, that’s an ERA claim and no coverage will exist under such policies.



Workers' Compensation Insurance

- Workers' compensation insurance generally *will* cover coronavirus-related claims generated from your association's employees.
- There are no exclusions in connection with any disease.
- Unless another, unrelated exclusion applies.





Questions?

Jeffrey S. Tenenbaum, Esq.

Managing Partner

Tenenbaum Law Group PLLC

1101 K Street, NW, Suite 700

Washington, DC 20005

202-221-8002

jtenenbaum@TenenbaumLegal.com

www.TenenbaumLegal.com



Coronavirus: Crisis and Ongoing Communication Strategies

Robb Lee

Chief Marketing & Communications Officer

ASAE: The Center for Association Leadership

Crisis Communications – Visualization

- Health concerns are troubling on multiple levels
- Start with your worst-case scenario
- Hear input from stakeholders
- Do not overcommit
- Refine approval process and simplify if necessary
- What would you want to hear?



Marketing and Business – Future State

- Assess audience need and design around that first
- Achieve best possible solution – not the ideal one
- Product management orientation
- Likely no “overnight” fixes





Coronavirus:

**Questions & Future
Discussion Topics**

**For Additional Resources
Please Visit**

**[https://www.asaecenter.org/
resources/roundup/issue-
roundup-coronavirus](https://www.asaecenter.org/resources/roundup/issue-roundup-coronavirus)**