

Exculpatory Agreements: Mitigating COVID-19 Related Risks as the Economy Reopens

“Stores, restaurants, bars, and other customer-facing business owners are in various stages of reopening around the country and facing a patchwork of regulations and recommendations for dealing with the ongoing pandemic. Many are rightly concerned about liability to customers based on exposure to COVID-19,” discuss Damon Suden and William Pierotti in Kelley Drye’s *Client Advisory*.

“Exculpatory agreements are contracts whereby one party waives their right to sue the other party on certain grounds, negligence for example. While every business should ensure that they are taking the responsible and appropriate steps necessary to protect their patrons, under the right circumstances the use of these agreements could provide some much needed protection. Exculpatory agreements may not be appropriate for every business, but for businesses that can and wish to use them, they can help minimize risk in a time of high risk and great uncertainty. Pairing these agreements with an arbitration clause or class action waiver could further fortify a business against expensive litigation as they navigate rebuilding.”

Read the article.