

How to Avoid Breach of Contract: ABA Business Law Section Releases Standstill/Tolling Agreement

“The coronavirus pandemic has no doubt caused many businesses – particularly smaller and mid-sized businesses, and those in industries more negatively affected – to take unprecedented action just to survive. For many businesses, a nationwide lockdown has caused them to revisit all of their contracts to determine how the pandemic will impact their business agreements, and what happens if they aren’t able to perform as agreed,” reports Sullivan Worcester ‘s *News*.

“Strategies have included cash conservation (to the extent businesses have cash on hand) or defaulting on performance, payment or collection obligations under existing contracts. In response to the measures being taken, it is likely that legal action will follow in the form of collection actions or other lawsuits and bankruptcies; even where payment obligations are secured, it is unlikely that exercising those rights would give meaningful recourse to a secured party in this environment.”

“In response to these issues as they arise in this particular environment, a standstill agreement might be an appropriate solution. Using a standstill agreement provides a temporary workout between parties can help avoid defaults under contracts and the ensuing consequences, all while preserving existing business relationships, so as to avoid these potentially fatal pitfalls.”

Read the article.