

Managing Contract Risks & Remedies in a Time of Coronavirus

“While it’s sometimes said that one person’s failure to plan ahead doesn’t constitute an emergency for everyone else, but one couldn’t plan ahead for this current Coronavirus pandemic that now has indeed created an unprecedented, unforeseeable emergency with many scrambling to evaluate the consequences of a failure or inability to perform,” writes Joseph I. (“Joe”) Rosenbaum in Rimon’s *Insights & Analysis*.

“In many ways, in addition to memorializing the intent and expectation of parties to a transaction, a contract is a method of allocating the risk inherent in the transaction. The parties entering into the contract try to assign rights and obligations, crafting a variety of clauses intended to reflect the expectations of each of the parties under most circumstances and dealing with the consequences and potential remedies should those intentions and expectations go awry. But no matter how lengthy and detailed your efforts at documentation may have gone, no contract could possibly deal with every possible contingency – and by definition, all the potential unforeseeable events.”

“The coronavirus outbreak is a tragic, but poignant example of just such an unforeseeable occurrence. In most cases, by government order or restriction, the pandemic has forced the closure of businesses, the cancellation of concerts, sporting events, and conferences, has delayed, suspended or completely ended many commercial transactions and has interfered with travel, transportation and the supply of goods and services – in some ways with dire health-related consequences. In short, while some may merely be delayed or suspended for a time, the COVID-19 pandemic has made many contracts either impossible or

extremely impractical to perform.”

Read the article.