BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

CLIENT ALERT: COVID-19

March 15, 2020

The COVID-19 virus has impacted the communities in which we live and work, and we expect its impact will continue and intensify in the short term. Berger Singerman has been closely monitoring the alerts issued by the World Health Organization and the Center for Disease Control. The health and safety of our employees, their families, our clients, and our communities remain our priority.

Currently, each of our offices remains open and our dedicated team members continue to conduct business as usual. Our firm is being proactive to minimize exposure to the virus and at the same time continue our provision of exceptional service to our valued clients. We are prepared should conditions worsen and have implemented programs that permit all of our team members to work remotely without interruption.

The virus will impact nearly every business. As you assess, prepare and implement your businesses contingency plans, we offer the following for your consideration:

Understand your coverages. Businesses should review their insurance policies to understand whether their current coverage for a disruption in their business activities. If the business sustains a loss of income, keep an accurate record of expenses as well as any costs incurred to maintain the continuity of the business. Increased travel cancellations and disruptions in daily life can certainly impact a business's financial stability. Taking steps to preserve and document these financial losses will be crucial to recovery under any insurance policy.

Prepare for business continuity plans and offsite employees. Many U.S. workers tend to fear that calling in sick or taking days off will result in punitive action and diminished career prospects, and companies historically have not developed cultures or messaging to counter this notion. The likelihood that increasing numbers of employees will be unable to work either because they are sick or must care for others means that companies should review their paid time off, sick leave and work from home policies now. Policies that give employees confidence that they will not be penalized and can afford to take sick leave or work from home are an important tool in encouraging self-reporting and reducing potential exposure.

Assess contracts in place to understand your rights, remedies and obligations. If a contract includes a *force majeure* provision, it may operate to relieve one or both parties of some or all their contractual obligations if an unforeseeable event beyond either party's control prevents or delays full or partial performance of obligations under the contract. To evaluate a company's rights, obligations, and remedies, consider, among other things, what contract provisions are relevant, what law governs the contract, how does the contract define a *force majeure* event, is the pandemic the cause of the party's nonperformance, does the contract require notice, what are the implications of a *force majeure* event, and are there alternatives to performance. Whether a party can exercise its rights under a *force majeure* clause must be determined on a case-by-case basis.

Please reach out should you need any assistance in navigating this new and complex business landscape.

The COVID-19 pandemic is creating rapidly-changing issues for businesses, and government aid processes and measures designed to assist businesses may also change materially from when this Client Alert is issued. We therefore encourage you

to monitor our website, review our future Client Alerts and generally remain alert for additional updates or modifications to laws and regulations.

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