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Employee Handbook Policies in a COVID-19 World

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Topics in This Session

- ▶ FFCRA Leave Policies
- ▶ Teleworking Policies
- ▶ OSHA Requirements
- ▶ Employee Testing and EEOC Law
- ▶ Q&A aka “What Ifs” (because almost no one asks a lawyer a question without a “What if”)

The CMB Slide

- ▶ We are talking “legal” but this general advice for education purposes, I am going to assume all your questions are “hypothetical”
- ▶ Legal advice is very fact dependent, different facts = different advice.
- ▶ Just because we talk about your situation doesn’t mean the talk is privileged
- ▶ I am A lawyer, but I am not YOUR lawyer (unless you hire me)
- ▶ If you need confidential legal advice you should consult an attorney.

FFCRA Conditions

- (1) The Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- (2) The Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- (3) The Employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
- (4) The Employee is caring for an individual subject to an order described in (1) or who has been advised as described in (2).

FFCRA Conditions

(5) The Employee is caring for his or her son or daughter whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19 related reasons.

(6) The Employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

FFCRA Paid Sick Leave

Paid Sick Leave

- ❑ 80 Hours for Full Time Employees
- ❑ Part-time employees get weekly average x 2 hours
- ❑ For use for reasons (1) – (4) above
- ❑ Full Daily wage but capped at \$511 per day
- ❑ Can be taken intermittently

PSL is in addition to employer PTO or state mandated sick leave policies

FFCRA EFMLA

Expanded Family Medical Leave Act Leave

- ❑ Total of 12 Weeks
- ❑ Maybe taken intermittently
- ❑ For use for reason (5) above only
- ❑ 2/3 of Full Daily wage but capped at \$200 per day
- ❑ First 2 weeks can be used by the PSL
- ❑ Employer can require employee use company PTO or state sick leave concurrently

FFCRA EFMLA

Expanded Family Medical Leave Act Leave DOES NOT obligate employers to provide other FMLA Classic unless the employer has 50 employees.

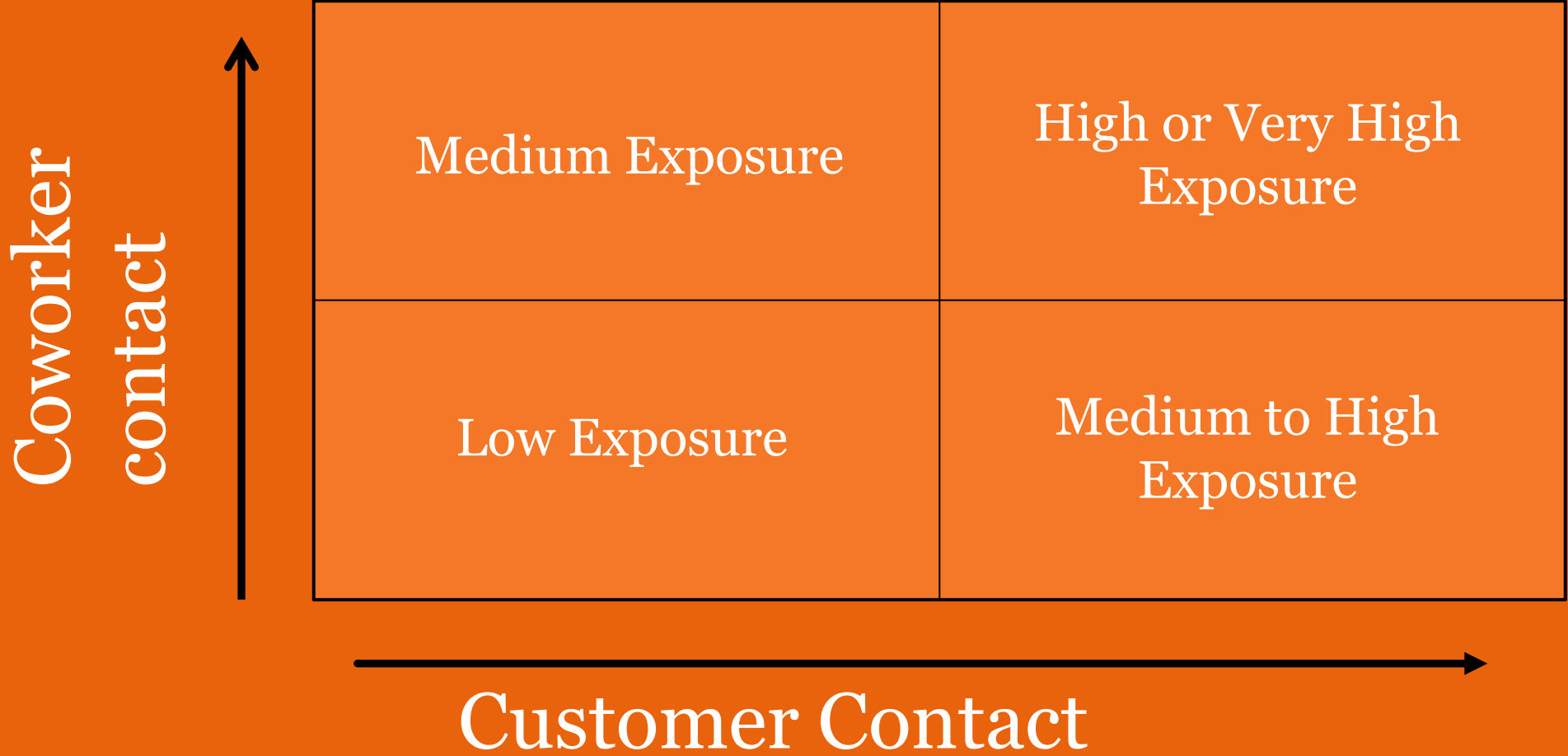
Make sure policy is clear on that topic.

Teleworking Policy

An Ongoing policy should include the following

1. Who is eligible?
2. How to request?
3. Trial period and efficacy assessment
4. Technology requirements
5. Home office requirements
6. Time and task tracking
7. Other employer specific needs

Employee Exposure Risk Assessment Matrix



OSHA General Duty Standard

All employers have a General Duty to provide all employees a workplace free from ***recognized hazards*** that are or may cause serious bodily harm or death.

Develop Procedures for Safety

Workplace Controls

Physical Controls

Barriers

High Efficiency Air Filters

Reconfigure workspaces

Administrative Controls

Worker health testing

Scheduling and shifts

Leave Policies

Training & Communications

Develop Procedures for Safety

Workplace Procedures

Hygiene and cleaning processes

Customer Interaction processes

Handwashing and sanitizing for customers

Personal Protective Equipment

Masks and Gloves

Goggles and Face Shields

Respirators (for high exposure risk)

COVID-19 and Employee Discrimination

Discrimination Laws Still Apply!

You cannot use COVID-19 as the basis for discriminating against anyone who is in a protected class.

NOTE: *Everyone* is in a protected class

What you can do with employees

Take Temperatures (temporarily)

Ask about symptoms

Monitor employees for symptoms

Encourage those who are sick to stay home

Temporarily administer accurate and reliable tests for COVID-19 (FDA Approval is a good sign, but not always)

Address requests for reasonable accommodations

ALL MEDICAL
INFORMATION IS
CONFIDENTIAL
AND MUST BE
SEGREGATED FROM
OTHER EMPLOYEE
RECORDS

Communicate, Early and Often

Employers should develop a communications plan to inform all employees of developments.

Inform all employees of reopening plans and procedures.

Update all all applicable Employee Handbook policies

Communicate all policy changes to employees as soon as possible.
Employers can require employees acknowledge receipt of policy changes.

When Risk Becomes Reality

Do what you can, with what you have, where you are.

In any moment of decision, the best thing you can do is the right thing, the next best thing is the wrong thing, and the worst thing you can do is nothing.

-Theodore Roosevelt

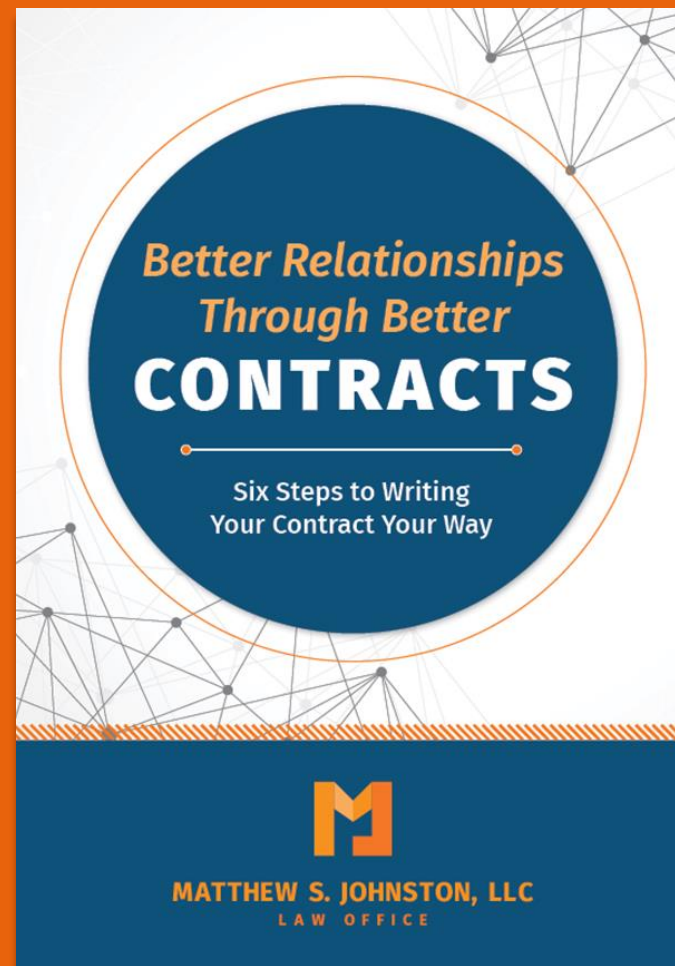
Time for What Ifs

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“A contract is nothing more than a written description of a business relationship.”

If your business involves a large number of contracts, you do not have to fumble around in the dark. This short e-book will guide you through a process of thinking about your business contracts in a way that will help you develop solid contracts that document the relationship with your customers.

E-Book Now on Sale



Got Questions, Comments, or Want to Chat

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