

Timothy Ford and Alex Lee Featured In Paint Magazine, "COVID-19: A Changing Legal Landscape"

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Laws, programs and directives on COVID-19 are changing quickly, and today's news can become obsolete in a matter of moments. At the end of last week, we spoke with Tim Ford and Alex Lee of Einhorn Barbarito Attorneys at Law (Denville, NJ) to share some insight on how a business owner can deal with on-site health and safety, as well as discuss some new legislation at the federal level in the wake of the pandemic.

If you are in an area where you can still go out to a job site, you have certain rights and responsibilities regarding safety. If one of your employees seems ill, you can send them home and require a medical clearance before they return to work. If someone is being tested for the virus, you have the right to keep them off the job site until and unless a negative diagnosis comes back.

A Federal bill set to go into effect within the next two weeks will allow business owners to claim a tax credit from the government at the end of the year for payments made for emergency family medical leave or emergency paid sick leave, Ford reported. "It applies generally to all employers with fewer than 500 employees, which is a pretty drastic change from what's gone before."

This type of legislation is a new concept, says Lee. "It's very expansive. It's intended to be in effect until the end of the year, at least for the time being," he said.

You'll still need to comply with paid leave laws in your state that are already in place, Ford reminds us. Just as important, keep up to date, because things are changing fast.

If you place a worker in a known exposure situation, you're in violation just as if you circumvent any other safety practice, e.g. fall protection or chemical exposure.

Also, he continues, laws regarding medical privacy still apply. “Employers still have to be careful under federal law and any applicable state laws as to what information they’re requesting from the employees. Anytime you’re asking for medical information, I’d say you should stop short of anything beyond saying that they need medical clearance from their physician to return to work. And usually that clearance is just going to say, ‘Jane Doe is approved to return to work.’ They’re not going to say anything in any detail,” said Ford.

Termination is another area of concern, said Ford. “Because of how much it’s changed recently and because there are ramifications, you could be violating the law if you terminated an employee.” Same goes for failure or refusal to pay emergency medical leave for an employee if they fall ill or need to provide care for a family member.

Finally... if you have questions, ask! “It’s hard for us as employment lawyers to keep up over the past week with what’s happening,” said Ford. “It’s going to be very difficult for business owners that don’t have the knowledge and experience. It’s important for business owners to be aware of what their responsibilities are.”