



**Lipsitz Green
Scime Cambria** LLP
ATTORNEYS AT LAW

Michael Schiavone



Michael Schiavone has provided legal guidance to businesses for over 30 years. He concentrates his practice in the areas of business law, tax planning, commercial real estate, sports law, and estate planning. Mr. Schiavone can be reached at:

Phone: 716 844 3500

E-mail: mschiavone@lglaw.com

Mark L. Stulmaker



Mark L. Stulmaker practices in the areas of employee benefits and taxation, serving as counsel to trustees of public and private pension and health and welfare benefit plans as well as to closely held businesses.

Phone: 716 849 1333, ext. 358

E-mail: mstulmaker@lglaw.com

Diane Perri Roberts



Diane M. Perri Roberts represents businesses in contract disputes and employment matters in federal and state court as well as in mediations and arbitrations. Ms. Perri Roberts counsels clients in a wide array of employment litigation matters and also defends various employers in labor matters. Ms. Perri Roberts can be reached at:

Phone: 716 849 1333, ext. 465

E-mail: droberts@lglaw.com

Matthew B. Morey



Matthew B. Morey counsels clients through significant events in the life of their businesses including contractual matters, corporate and partnership tax matters, compliance matters, cost-effective solutions when conflicts arise, and strategies to assist in the growth of their businesses. Mr. Morey can be reached at:

Phone: 716 849 1333, ext. 509

E-mail: mmorey@lglaw.com

SPECIAL ALERT FOR BUSINESSES ON

The Coronavirus

How COVID-19 Government Mandates Impact Your Business

In the past several weeks the impact of the COVID-19 pandemic has forced businesses throughout the world to drastically change the way they conduct business to ensure the safety of their workforce and to comply with the rapidly evolving laws that govern them. We appreciate the uncertainty of this moment. Our firm's lawyers remain working and dedicated to help our clients navigate the complexity of the ever evolving and unprecedented business climate and legal landscape the current pandemic presents.

Closing of Non-Essential Business

Yesterday, Governor Cuomo signed the "New York State on Pause" Executive Order, which, among other things, requires all non-essential New York based businesses and not-for-profit organizations to close all in-office functions, effective as of 8:00 pm this Sunday through April 19th.

The new Executive Order modifies a prior Executive Order signed by Governor Cuomo this week which required: (i) non-essential businesses and entities to reduce their workforce at their places of business by at least seventy five percent (75%); and (ii) to utilize a work-from-home arrangement to the maximum extent possible.

What Is "Essential Business"

Businesses or entities which provide essential services or functions (an "Essential Business") may continue in-office activities (but still must utilize a remote work-from-home arrangement where possible). Those businesses and organizations are as follows:

1. Essential Health Care Operations, including:

- research and laboratory services
- hospitals
- walk-in-care health facilities
- emergency veterinary and livestock services
- elder care
- medical wholesale and distribution

- home health care workers or aides
- medical and emergency dental care
- nursing homes, or residential health care facilities or congregate care facilities
- medical supplies and equipment manufacturers and providers

2. Essential Infrastructure, including:

- utilities including power generation, fuel supply and transmission
- public water and wastewater
- telecommunications and data centers
- airports/airlines
- transportation infrastructure such as bus, rail, or for-hire vehicles, garages
- hotels and places of accommodations

3. Essential Manufacturing, including:

- food processing, manufacturing agents, including all foods and beverages
- chemicals
- medical equipment/instruments
- pharmaceuticals
- sanitary products
- telecommunications
- microelectronics/semi-conductor
- agriculture/farms
- household paper products

4. Essential Retail, including:

- grocery stores, including all food and beverage stores
- pharmacies
- convenience stores
- farmer's markets
- gas stations
- restaurants/bars (but only for take-out/delivery)
- hardware and building material stores

5. Essential Services, including:

- trash and recycling collection, processing and disposal
- mail and shipping services
- laundromats
- building cleaning and maintenance
- child care services
- auto repair
- warehouse/distribution and fulfillment
- funeral homes, crematoriums and cemeteries
- storage for essential businesses
- animal shelters

6. News Media

7. Financial Institutions, including:

- banks
- insurance
- payroll
- accounting
- services related to financial markets

8. Providers of Basic Necessities to Economically Disadvantaged Populations, including:

- homeless shelters and congregate care facilities
- food banks
- human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; those operating community shelters and other critical human services agencies providing direct care or support

9. Construction, including:

- skilled trades such as electricians, plumbers
- other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes

10. Defense:

- defense and natural security-related operations supporting the U.S. Government or a contractor to the U.S. Government

11. Essential Services Necessary to Maintain the Safety, Sanitation and Essential Operations of Residences or Other Essential Businesses, including:

- law enforcement
- fire prevention and response
- building code enforcement
- security
- emergency management and response
- building cleaners or janitors
- general maintenance whether employed by the entity directly or a vendor
- automotive repair
- disinfection

12. Vendors that Provide Essential Services or Products, Including Logistics and Technology Support, and Child Care Services :

- logistics
- technology support for online services
- child care programs and services
- government owned or leased buildings
- essential government services

Applying for “Essential Business” Designation

In addition, businesses or organizations that are not technically classified within the scope of businesses summarized above, yet otherwise believe they qualify as an Essential Business, may apply to the Empire State Development Corporation for designation as an Essential Business. Further, businesses or organizations that support or provide goods or services to an otherwise Essential Business may obtain a limited exemption to the extent it supports the Essential Business. Our firm has assisted clients in the application process and have obtained favorable rulings on such exemption requests.

Workplace Safety Requirements

All businesses and organizations that continue operations in any capacity should continue to implement policies recommended by the Centers for Disease Control and Prevention (CDC) and required by federal and state law to protect the safety of their workforce, including the New York Department of Health. Those policies include ensuring employees working on-site respect “social distancing”, which is otherwise known as employees maintaining a physical distance of at least six (6) feet apart from each other, and ensuring the vigilant sanitation of all areas where employees are working.

Paid Leave Requirements

Finally, federal and state governments have acted quickly to enact laws to assist employees unable to work as a result of the COVID-19 pandemic. Specifically, the Emergency Family and Medical Leave Expansion Act (“EFMLEA”) and Emergency Paid Sick Leave Act (“EPSLA”) were enacted by the federal government this week. These new federal laws go in to effect April 2, 2020.

While a detailed analysis of the new laws is beyond the scope of this alert, the EFMLEA essentially requires all employers with less than 500 employees to provide paid leave to an employee (equal to two-thirds of an employee’s regular salary, subject to certain caps) that is unable to work due to the unavailability of child care during the COVID-19 pandemic. Pursuant to the EPSLA, employers with less than 500 employees must also provide paid sick leave if an employee is unable to work to the extent, among other things, he or she is in quarantine, been advised to self-quarantine by a medical professional, diagnosed with COVID-19, or caring for a son or daughter as a result of COVID-19. Employers need to be aware of these laws and should take them into consideration when making decisions with an employee personally impacted by COVID-19.

We appreciate the challenges your business or organization are contending with during these uncertain times. Our experienced team of lawyers continue to be available to assist you as needed and to advise you on the rapidly changing laws.

SPECIAL ALERT FOR BUSINESSES ON

The Coronavirus