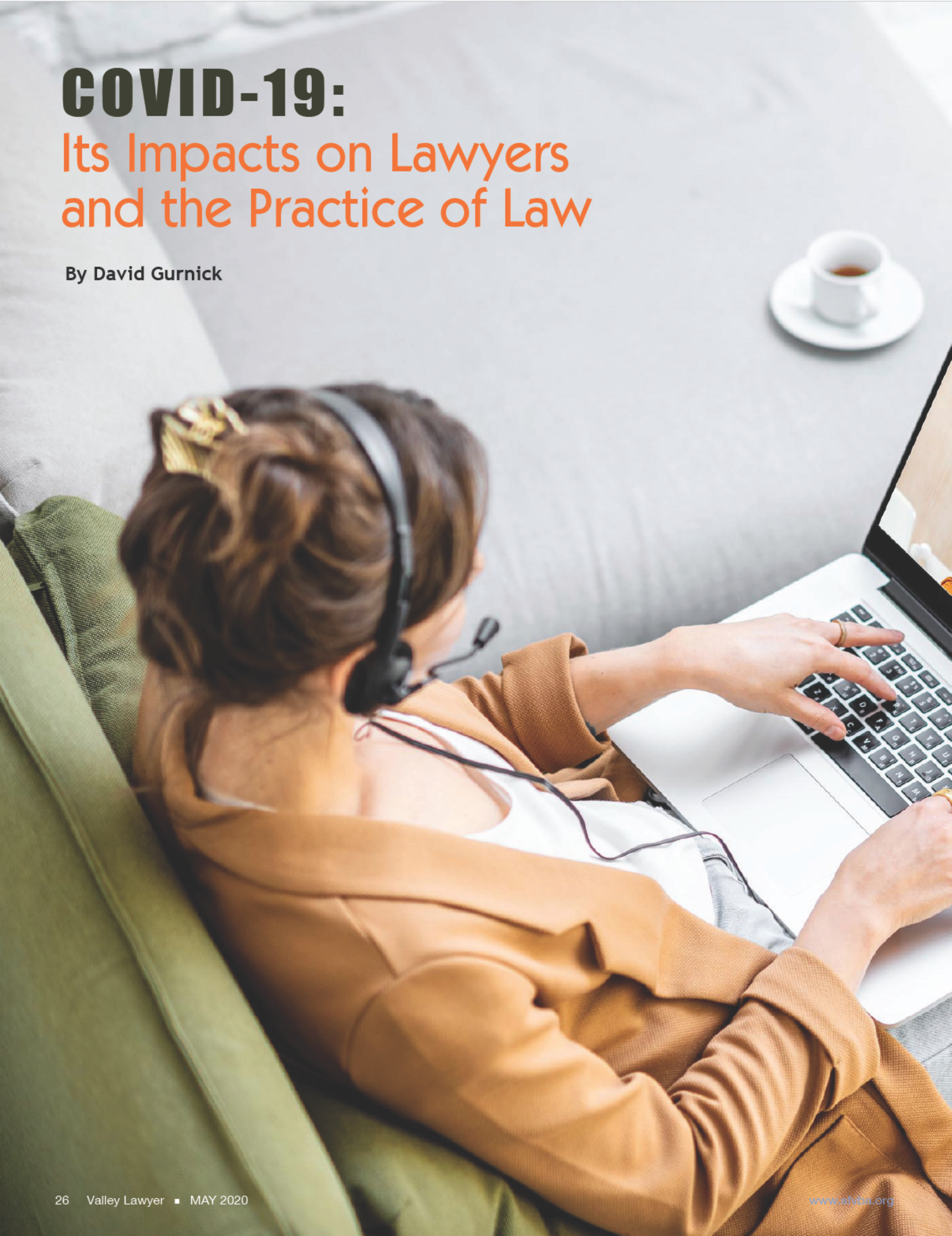


# COVID-19: Its Impacts on Lawyers and the Practice of Law

By David Gurnick







The COVID-19 virus has, quite literally, wreaked havoc on virtually every major aspect of society and daily life and has inacted dramatic changes for lawyers and the practice of law.



**C**OVID-19. JUST THREE MONTHS ago, this word did not exist. It first appeared in the *Los Angeles Times* on February 12, 2020.

That was a day after the World Health Organization assigned the name to the disease that, at that point, had sickened more than 42,000 people in China. At that time, there were seven cases in California and just five more in the rest of the United States.<sup>1 2</sup>

In only a few more weeks, the word, and the coronavirus it refers to, have upended the world. The barely-visible microbe has proved far more disruptive than the world's chronic ethnic and religious wars, trade disputes, border closures, and politics.

The virus has, quite literally, wreaked havoc upon virtually every major aspect of society and daily life and has inacted dramatic changes for lawyers and the practice of law.

While it is too early to tell all the ways life and the practice of law will be permanently remade due to the crisis, this article looks at some of the most apparent changes so far, and how lawyers are coping.

### **Background: The Coronavirus**

Coronaviruses are not new.

They are mentioned in court decisions as early as 1991, as well as a published opinion in 1994. They get their name from a crown-like appearance or corona seen when viewed through an electron microscope.<sup>3 4 5</sup>

People may recall the SARS epidemic of the early 2000s, which was caused by a coronavirus. Most coronaviruses are mild. In fact, they also cause the common cold. They invade the upper respiratory tract, including

the nose and throat and cause cold-like symptoms. COVID-19, like SARS, attacks the lungs and lower respiratory tract, making it much more dangerous.<sup>6 7 8 9</sup>

Coronaviruses spread through person-to-person contact and airborne droplets.

For example, if someone coughs on something, the droplets remain in place. If someone touches it, and then touches their own eyes, nose, or mouth, they are likely to become infected. The incubation period is about 2-14 days, while an infected person may not show any symptoms for as long as 14 days.<sup>10 11 12</sup>

The current pandemic began in December 2019. It was first reported in the United States the following month and reportedly began in an unclean outdoor food-shopping center in Wuhan, China. Some people exposed there traveled abroad spreading the virus far and wide.<sup>13 14 15</sup>

Its spread to the United States—its highly contagious nature, its deadly effects, and lack of immunity or any vaccine—mean other actions must be taken to defend against it.

Governments have imposed urgent, unprecedented measures to fight the spread.<sup>16</sup>

### **Measures Taken and Their Effects**

Already, the measures taken are wide-ranging.

The President Trump has declared a National Emergency. Individual states have issued emergency and disaster declarations, while all 50 states, the District of Columbia and all U.S. territories are working closely with

the Federal Emergency Management Agency (FEMA). Under the President's COVID-19 emergency declaration, counties and cities nationwide have issued shelter-in-place, stay-at-home and safer-at-home orders.<sup>17 18 19 20</sup>

Such orders have closed businesses, and mandated that people isolate themselves, avoid crowds, and stay at home.

Illustrative of the wide and deep effects of these measures, public gatherings have been restricted and in most places become unlawful.

Professional sports leagues have interrupted their seasons, while the annual collegiate basketball tournament—known as March Madness—was cancelled. Even the start of the Major League Baseball season was postponed, and whether the season will take place at all is in doubt.

Internationally, the quadrennial 2020 Summer Olympics has been postponed.

The world's amusement parks—Disneylands in California, Florida, Paris, Hong Kong, and Tokyo, Universal Studios, and the Cedar Fair—are closed and silent. Operas, concerts and theatre plays have ceased. Museums are shuttered. Giant cruise ships are docked or anchored offshore. The ringing ka-chings of Las Vegas casinos have been silenced as the casinos are closed, as are most shopping malls and movie theatres. Grocery stores, allowed to stay open, limit the number of customers inside, and require customers to lineup outside, six feet apart.<sup>21</sup>

At the businesses that are open, there are shortages of paper



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goods and packaged food despite the fact that there is no actual supply shortage.

People are afraid. The world has become dystopian.

In recent times, there have been widespread objections—some say discrimination—against people wearing face coverings in public.

A commentator noted, “in the new millennium, a series of nations have advanced legislation banning the wearing of face-veils.”<sup>22</sup>

But suddenly, people have been *ordered* to cover their faces in public. The City of Los Angeles ordered employees of exempted businesses that are permitted to operate—grocery stores, restaurants open for pick-up or delivery, food delivery services, taxi and ride-share drivers, plumbers, electricians, janitorial workers and gardeners—to wear face masks or face coverings with many people in the general public now do the same voluntarily.<sup>23</sup>

A new phrase—social distancing—has entered the world’s vocabulary with people being urged, often required, to remain six feet apart to reduce the risk of becoming infected.

The slowdown in business has resulted in a spike in unemployment claims, the stock market’s largest-ever decline, and a previously booming economy’s 180-degree turnaround with talk of a looming depression.

The federal government, seeking to address the resulting economic crisis, has taken drastic measures.

The Federal Reserve has lowered its interest rate to near zero with Congress passing the largest emergency aid measure in history, the Coronavirus Aid, Relief, and Economic Security (CARES) Act.<sup>24 25</sup>

CARES Act relief amounts to more than two trillion dollars. This number—a 2 followed by twelve zeros, that is \$2,000,000,000,000—is almost incomprehensible.

Businesses and individuals are scrambling to apply for the CARES Act Paycheck Protection and Economic Injury Disaster Loan (EIDL) programs as laid-off workers apply for unemployment benefits and most Americans stand-by to receive stimulus checks, each for as much as \$1,200.<sup>26 27 28</sup>

### **Measures Affecting Lawyers and the Practice of Law**

Many of the defensive measures taken against COVID-19 impact the practice of law and particularly affect how lawyers work and connect with their clients.

The most pronounced, impactful measure has been the closure, reduction in operations and postponement of proceedings in both state and federal courts.

All California jury trials have been suspended through at least late May. State Supreme Court Chief Justice Tani Cantil-Sakauye issued an General Order allowing courts throughout California to extend deadlines for arraigning defendants, holding preliminary hearings and allowing proceedings to occur remotely. The state’s Judicial Council approved emergency rules changing trial deadliness and bail schedules.<sup>29</sup>

Governor Gavin Newsom and many counties have ordered moratoriums on residential and commercial evictions for the non-payment of rent. In many jurisdictions, evictions cannot take place, in any event, due to courts throughout the state being shuttered.

Tenants who cannot pay rent, obviously will not. Inevitably, some tenants who could pay their rent, will take opportunistic advantage of the circumstances, though in most cases, the right to not pay rent is conditioned on suffering negative impacts of the current pandemic.

The U.S. Supreme Court extended the deadline for filing petitions for certiorari and ordered the

clerk to grant motions to extend time if the reasons are due to COVID-19.<sup>30</sup>

The Ninth Circuit restricted access to its courthouses to judges and court staff. The U.S. District Court for the Central District of California closed all courthouses to the public, except for criminal hearings.

The Court ordered that no civil hearings will take place except emergency time-sensitive matters, and those and all bankruptcy proceedings will be by telephone.<sup>31 32</sup>

### Impacts on Law Practice

The practice of law is, in reality, a service business.<sup>33</sup>

Private lawyers and their clients are experiencing the crisis and all its distresses. For some, in some fields, the crisis may generate legal work. Like almost everyone else, lawyers' personal lives are also being impacted.

And within the practice, the crisis is creating a wave of legal issues and questions.

Client questions have arisen about legal aspects relating to their health, updating estate plans, meeting sometimes complex statutory qualifications for massive government aid programs such as Paycheck Protection, EIDL and increased unemployment benefits.

Tenants are also seeking to avoid residential and commercial eviction, landlords with obligations seeking to maintain some flow of rents, and owners of all sorts seeking to save or salvage their businesses.

Work and business for many lawyers has dropped substantially. With business activity reduced, people laid-off from work, mandated distancing and intentional stay-at-home isolation, the volume of daily, ongoing interactions between people has plummeted.

Reduced levels of human activity and interaction are taking place with streets normally congested with automobile traffic empty. Stores normally bustling with people are quiet.

Less activity means fewer accidents.

That means fewer personal injury claims with personal injury lawyers are receiving fewer calls from prospective clients. In some ways, fewer people out and about means fewer occasions for crime, major or minor and closed stores mean fewer petty thefts. Everyone can agree, a lower crime rate is a good thing, but there is a side effect with less work generated for criminal defense lawyers.

Fear and uncertainty can kill business transactions, both large and small.

In times of uncertainty, companies fear entering into new leases and other contracts that would lock them in to new obligations. The full range of business transactions has declined. Fewer deals also mean fewer disputes.



Under the President's COVID-19 emergency declaration, counties and cities nationwide have issued shelter-in-place, stay-at-home and safer-at-home orders."

Altogether, these mean less work for transactional lawyers and litigators.

By way of example, in late March, Xerox called off an attempted \$34 billion hostile takeover of Hewlett Packard, due to the crisis.<sup>34</sup>

Closed courts mean fewer appearances. Suspension of jury trials means suspension of activity for trial lawyers. The decline in legal business has also caused major law firms to lay off personnel and reduce pay.<sup>35</sup>

Court reporters, document management companies and the range of service providers to the legal profession have also been impacted, as well.

Lawyers in large, medium and small firms, and in-house lawyers at companies, are now working from home with lawyer-client, lawyer-lawyer and inter-office meetings being conducted virtually using *Zoom*, *Skype*, *GoToMeeting* and other platforms.

Today, by utilizing virtual, electronically conducted meetings, clients and lawyers hear, see and are politely tolerant of more background—attention-seeking children, crying infants, barking dogs, meowing cats, spouses and significant others opening home-office doors inadvertently, or popping-in to say hello.

One apologizes for the distraction, but the other parties are sympathetic. They have similar circumstances at home too, and anyway, these sights and sounds of each other's homelife are mildly cheery intrusions, reminding isolated-at-home professionals of each other's humanity.

Court proceedings are increasingly telephonic. Courts have issued orders permitting more flexibility to conduct depositions using technology so that parties, counsel and court reporters may be remote from each other.

Mediators and arbitrators are also quickly learning to use the latest technology to manage proceedings remotely.

The SFVBA-sponsored nonprofit Mediation Center of Los Angeles is actively promoting its ability to conduct Online Dispute Resolution, including training its panel mediators to use private, online breakout rooms and other useful features.<sup>36</sup>

### Some Legal Work Has Been Generated

Though legal work has declined, not all legal work has stopped as the COVID-19 crisis has created significant legal issues and resultant work.

Criminal defense hearings, for example, with their constitutional priority are taking place, even if some are delayed or conducted by technology.

To reduce jail crowding, many low level—and some high profile—prisoners are being released from incarceration.

For example, on April 10, U.S. District Judge James Selna of the Central District of California granted a 90-day release and confinement at the home of a friend, of disgraced attorney Michael Avanatti, recently convicted of trying to extort millions of dollars from Nike, from a federal jail in New York.

Lawsuits, including class actions, have been brought against cruise lines and others alleging misrepresentations or failing to do enough, early on, to stop or prevent spread of the virus.<sup>37</sup>

For family law attorneys, many divorce filings have been put on hold. In contrast, a side effect of laid-off spouses confined to homes and apartments could actually increase divorces when the crisis eases.<sup>38</sup> These pressures also create concern for the risk of increased domestic violence.

No one wishes for these results. No one wishes for anyone to become ill. But as illness creates work for doctors, these sad side-effects of the crisis may create work for lawyers.

On a more upbeat note, there is some speculation that home-confinement of otherwise satisfied couples may generate a happy baby boom nine months hence.<sup>39</sup>

If anything, this crisis is a reminder of the need for estate planning.

By April 11, worldwide deaths from the coronavirus exceeded 102,000 and U.S deaths reached about 18,750.<sup>40</sup>

A perhaps grotesque side effect, but a truth about death, is that they will create work for probate lawyers.

The crisis impact on employment and employment lawyers is also

significant with companies in financial distress—those whose businesses have substantially declined or been shuttered altogether—laying-off large numbers of people. As a result, there is a reciprocal increase in claims for unemployment benefits.

Companies have been challenged in their ability to comply with federal and state Worker Adjustment and Retraining Notification (WARN) Act requirements of prior notice before laying off workers.<sup>41</sup>

Lawyers have had to consult on whether WARN Act exceptions such as the exception for “unforeseeable business circumstances” involving a “sudden, dramatic, and unexpected action or condition outside the employer’s control” apply.<sup>42</sup>

In the field of immigration law, travel and the issuing of visas have been in the news and highly controversial. As a result, international travel has largely ceased.

### **Force Majeure Revived**

Many lawyers have had to renew attention and refresh their memories of legal concepts not considered since law school, such as the doctrines of force majeure and frustration of purpose. Many lawyers are analyzing the contours of these rules, to assist clients in avoiding contract obligations that have been rendered impossible, impracticable or more difficult due to the crisis.

At the same time, they are analyzing the same rules to help clients who want their contracts enforced, to respond to possibly exaggerated claims of force majeure, which apply to some kinds of disruptive events that will excuse a party from performing a contract.

It is sometimes described as requiring, but is not limited to, an Act of God or its equivalent. As one court said, delay or nonperformance of a contract may be excused “when the agreed-upon performance has been



rendered commercially impracticable by an unforeseen supervening event not within the contemplation of the parties at the time the contract was formed.”<sup>43</sup>

A force majeure may potentially include any event that, in the circumstances, was a huge interference, occurring without the party’s fault, that no amount of care or diligence could have avoided. To excuse non-performance, the event must cause that non-performance.

Many business contracts have force majeure clauses. When an outside event interferes with performance, it is useful to review the clause.

A contractual force majeure clause may excuse a party from performing, or permit delay in performance, if the event is within the scope of the clause, which may state the steps that a party is required to take to invoke the clause’s benefits.

If a contract is silent about force majeure, that does not eliminate the rule and its potential use to excuse nonperformance.

California enacted force majeure as a rule of law with its Civil Code stating that performance of a contract is excused when “prevented or delayed by an irresistible, superhuman cause, or by the act of public enemies of this state or of the United States, unless the parties have expressly agreed to the contrary.”<sup>44</sup>

Many businesses face the challenge of other contracting parties claiming force majeure, but, it does not automatically make it so just because a dramatic event occurs and the other party claims it could not perform.

A company faced with the other party’s non-performance may be able to show steps the other party can take to continue performance and comply with the agreement.

The disruptions to business and individuals have resulted in numerous claims to insurance companies under policies covering business interruption, and claims under contracts that provide for indemnification in various

circumstances. Some of those companies have already begun to issue denials of business interruption claims creating massive work for lawyers who tender claims, and those who defend insurers in coverage disputes.

The pandemic, social distancing, working remotely and confinement at home have changed the way lawyers market their services.

Networking groups like ProVisors, the Valley Bar Network and TENS cannot meet in person. Some are meeting electronically. Others have cancelled scheduled gatherings. Online webinars have increased and clients are being inundated with email bulletins and updates on COVID-19, legislation, announcements and the like.

Lawyers and trade associations view these communications as public services, with a marketing benefit. Clients do appreciate some of the information, but, in time, may become numb to the incessant bombardment of information.

### **Effects on Education Including Law Schools**

The crisis has heavily impacted students at all levels.

Public and private schools, kindergarten to 12th grade, colleges and graduate schools have closed themselves to in-person classroom settings with remote learning taking place en masse. This includes law schools with students attending lectures, being called on by professors, answering questions and participating in class discussions remotely.

Current registrants of the LSAT may opt to take a variation of the exam at home.<sup>45</sup>

Some states, including California have postponed bar examinations, and others are likely to do the same.<sup>46</sup>

Many of this year's law school graduates will be delayed from becoming eligible for and admitted to practice law.

### **Changes to Law Practice Going Forward.**

The COVID-19 crisis will undoubtedly have permanent effects on society, including the practice of law. It is impossible to tell yet what changes made now as emergency measures will last and what additional changes will come.

But some predictions can be made.

Over the next few years, courts will deal with cases concerning COVID-19 and effects of the crisis as a new, updated body of case law will develop on the contours of force majeure and commercial frustration.

At the same time, extensive published opinions will address the scope of business interruption insurance

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policies, indemnity clauses and other coverage questions on whether policy language does or does not cover various interruptions that have arisen from the crisis.

New bodies of law will also develop over the powers of government in health crises and separation of powers.

The COVID-19 crisis has seen the executive and judicial branches issuing orders and directives that extend statutes of limitation and other time deadlines, grant relief from rights to control property and other statutory rights and waive or change laws and may be seen by some to cross lines into roles of the Legislature.

These actions will be challenged and ruled upon in published opinions.

Further questions will arise as, in some cases, trial and appellate courts may be called to review and rule upon orders they issued themselves, further testing separation of powers.

People will, for a time, be alert to sanitization, washing hands, covering noses and mouths when sneezing and coughing, and keeping at least some social distance. Our society will see increased pressure and receptiveness to staying home when sick, and people will be more sensitive to crowds.

The crisis experience will result in courts looking anew at how they operate and be more comfortable with increased remote and telephonic hearings.

Law practices will reevaluate their approach to staffing. Some lawyers who worked from home may find they enjoy that and that approach to work may well mushroom.

Telecommuting will increase and law firms will downsize their physical premises. There will be lasting and increased use of videoconference platforms like *Zoom*, *Skype* and *GoToMeeting* that will also be utilized for arbitrations and mediations, especially those for smaller claims.


Lawyers will be much more expansive and specific in drafting force majeure clauses in agreements of every kind and work with the courts to adopt contingency and continuity plans for future pandemics. Lawyers and the public will give more attention to estate planning, including provisions for an early demise as the threat of new diseases to come will be high on people's minds.

### **The Crisis of Our Times**

America and the world have worked through many life-changing crises—wars both hot and cold, depressions,



recessions, 9/11, terrorism, revolutions, plagues, and countless natural disasters to classify only a few.

Today, the COVID-19 pandemic is the crisis of our times. It is far from over and its effects—short-, medium- and long-term—may have only just begun. 

<sup>1</sup> Colleen Shalby, *Quarantine's end sparks joy and celebration; Final tests after 14 days show none of the evacuees in Riverside County have virus*, L.A. Times, Feb. 12, 2020.

<sup>2</sup> *Id.*

<sup>3</sup> *American Home Products Corp. v. California Biological Vaccine Labs* 1991 WL 335365 (C.D. Cal. 1991).

<sup>4</sup> *Urschel Farms, Inc. v. Dekalb Swine Breeders, Inc.* 858 F.Supp. 831 (N.D. Ind. 1994).

<sup>5</sup> Paul Arshagouni *An Introduction to Medical Issues Posed by International Health Threats in a Legal Framework* 12 Mich. St. J. Int'l L. 199, 201 (2003) ("Arshagouni").

<sup>6</sup> See e.g., Joshua D. Reader, *The Case Against China: Establishing International Liability for China's Response to the 2002-2003 SARS Epidemic*, 19 Colum. J. Asian L. 519 (2006) ("Reader"). "SARS" refers to Severe Acute Respiratory Syndrome.

<sup>7</sup> Arshagouni, *supra*, note 5 at 201.

<sup>8</sup> Coronaviruses are the second most common cause of the common cold. Rhinoviruses are the leading cause. Reader, *supra* note 6.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Castillo v. Barr*, \_\_\_ F.3d \_\_\_, 2020 WL 1502864, at \*2 (C.D. Cal., 2020) ("people infected with the coronavirus can be asymptomatic during the two to fourteen day COVID-19 incubation"); *Malam v. Adducci* \_\_\_, 2020 WL 1672662, at \*11 (E.D. Mich., 2020) (incubation period is up to fourteen days).

<sup>13</sup> See e.g., Natasha Khan, *New Virus Discovered by Chinese Scientists Investigating Pneumonia Outbreak; Latest tally of people sickened in Wuhan is 59, with seven in critical condition*, Wall Street Journal (Online) Jan. 8, 2020.

<sup>14</sup> *Matter of Extradition of Toledo Manrique*, No. 19 MJ 71055, 2020 WL 1307109, at \*1 (N.D. Cal. Mar. 19, 2020). ("These are extraordinary times. The novel coronavirus that began in Wuhan, China, is now a pandemic.")

<sup>15</sup> *Id.* See also, Mark McPherson, *Soul-Work, Changing Face of Water Rights* (State Bar of Texas 2020) 3-1, 2020 WL 1276126.

<sup>16</sup> The COVID-19 mortality rate is ten times greater than influenza. *Castillo v. Barr*, *supra* note 12 at \*2.

<sup>17</sup> See *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (Covid 19) Outbreak*, WhiteHouse.gov (Mar. 13, 2020), [www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak](http://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak).

<sup>18</sup> For a listing of state COVID-19 websites, see [www.csbs.org/system/files/2020-03/Covid-19%20State%20Website%20List%20Mar%2016.pdf](http://www.csbs.org/system/files/2020-03/Covid-19%20State%20Website%20List%20Mar%2016.pdf).

<sup>19</sup> [www.fema.gov/coronavirus/disaster-declarations](http://www.fema.gov/coronavirus/disaster-declarations) (visited Apr. 11, 2020).

<sup>20</sup> See e.g., City of Los Angeles, "Safer At Home Order for Control of COVID-19" (Mar. 19, 2020).

<sup>21</sup> See e.g., Matt Byrne, *Coronavirus fears upend Gorham woman's cruise Opal Staudenmaier is stuck at sea because the ship's ports of call won't let travelers disembark Portland [Maine] Press Herald*, Feb. 8, 2020.

<sup>22</sup> Evan Darwin Winet, *Face-Veil Bans and Anti-Mask Laws: State Interests and the Right to Cover the Face*, 35 Hastings Int'l & Comp. L. Rev. 217 (2012).

<sup>23</sup> Public Order Under City of Los Angeles Emergency Authority (Apr. 7, 2020) (workers "must wear face coverings over their noses and mouths while performing their work").

<sup>24</sup> See e.g., Claire Hansen, *Fed Lowers Interest Rate to Near-Zero As Coronavirus Spreads*, U.S. News & World Report (Mar. 15, 2020) [www.usnews.com/news/economy/articles/2020-03-15/federal-reserve-lowers-interest-rate-to-near-zero-as-coronavirus-spreads](http://www.usnews.com/news/economy/articles/2020-03-15/federal-reserve-lowers-interest-rate-to-near-zero-as-coronavirus-spreads).

<sup>25</sup> Pub. L. 116-136, 134 Stat. 281 (2020).

<sup>26</sup> See, NPR, *President Trump Signs \$2 Trillion Coronavirus Rescue Package Into Law* (Mar. 27, 2020) [www.npr.org/2020/03/27/822062909/house-aims-to-send-2-trillion-rescue-package-to-president-to-stem-coronavirus-cr](http://www.npr.org/2020/03/27/822062909/house-aims-to-send-2-trillion-rescue-package-to-president-to-stem-coronavirus-cr) (visited Apr. 11, 2020).

<sup>27</sup> 15 U.S.C. Sec. 636(a)(36).

<sup>28</sup> 15 U.S.C. Sec. 636(b)(9)(C).

<sup>29</sup> See, Cheryl Miller, *How COVID-19 Is Impacting California Courts: Roundup of Services* (Apr. 10, 2020) [www.law.com/therecorder/2020/04/03/how-covid-19-is-impacting-california-courts-roundup-of-services/](http://www.law.com/therecorder/2020/04/03/how-covid-19-is-impacting-california-courts-roundup-of-services/).

<sup>30</sup> U.S. Supreme Court Order (Mar. 19, 2020) 589 U.S. \_\_\_, (2020).

<sup>31</sup> Ninth Circuit Order (Mar. 16, 2020).

<sup>32</sup> Press Release, U.S. Dist. Court for Central Dist. of California (Mar. 19, 2020) [www.cacd.uscourts.gov/sites/default/files/documents/](http://www.cacd.uscourts.gov/sites/default/files/documents/)

[Press%20Release%20-%20Activation%20of%20Continuity%20of%20Operations%20Plan.pdf](http://Press%20Release%20-%20Activation%20of%20Continuity%20of%20Operations%20Plan.pdf).

<sup>33</sup> Of course, it is also a "profession." See e.g., Carol A. Needham, *Permitting Lawyers to Participate in Multidisciplinary Practices: Business as Usual or the End of the Profession As We Know It?*, 84 Minn. L. Rev. 1315, 1316-17 (2000) ("Academics and other commentators have debated whether the practice of law is a profession or a business...Perhaps it is closest to the mark to acknowledge that law practice is simultaneously a profession and a business.").

<sup>34</sup> See e.g., Cara Lombardo, *Xerox Is Ending Hostile Takeover Bid for HP*, Wall Street Journal (Apr. 1, 2020) [www.wsj.com/articles/xerox-to-end-hostile-takeover-bid-for-hp-11585684800](http://www.wsj.com/articles/xerox-to-end-hostile-takeover-bid-for-hp-11585684800) (visited Apr. 11, 2020).

<sup>35</sup> See e.g., Debra Cassens Weiss, *Pay cuts and furloughs continue as more firms trim costs to address COVID-19* (ABA Journal, Apr. 9, 2020) [www.abajournal.com/news/article/pay-cut-and-furlough-juggernaut-continues-as-more-law-firms-trim-costs-to-address-covid-19](http://www.abajournal.com/news/article/pay-cut-and-furlough-juggernaut-continues-as-more-law-firms-trim-costs-to-address-covid-19) (visited Apr. 11, 2020) (noting salary cuts and/or furloughs at Orrick, Herrington & Sutcliffe; Venable; Nixon Peabody; Shook Hardy & Bacon; Cozen O'Connor; Arent Fox; Loeb & Loeb; Baker Donelson; Cadwalader, Wickersham & Taft; Reed Smith and other firms); Aebera Coe, *3 More BigLaw Firms Slash Pay Amid COVID-19 Pandemic* (Law 360 Apr. 7, 2020) [www.law360.com/articles/1261261/3-more-biglaw-firms-slash-pay-amid-covid-19-pandemic](http://www.law360.com/articles/1261261/3-more-biglaw-firms-slash-pay-amid-covid-19-pandemic) (visited Apr. 11, 2020) (noting salary reductions at Blank Rome; Winston & Strawn; Brown Rudnick and other firms).

<sup>36</sup> [www.mediationla.org/](http://www.mediationla.org/). Full disclosure: the author of this article is a member of MCLA's board of directors.

<sup>37</sup> See e.g., Ashler Stockler, *Class Action Lawsuits Related to Coronavirus Spike Across the Country* (Newsweek, Apr. 3, 2020) [www.newsweek.com/covid-19-class-action-lawsuits-1496027](http://www.newsweek.com/covid-19-class-action-lawsuits-1496027) (visited Apr. 11, 2020) (noting various actions, including shareholder class-action against Norwegian Cruise Lines for representing positive outlooks in spite of COVID-19).

<sup>38</sup> See e.g., Tyler Foggatt, *To Have and to Hold, in Quarantine and in Health*, New Yorker (Mar. 16, 2020) [www.newyorker.com/magazine/2020/03/23/to-have-and-to-hold-in-quarantine-and-in-health](http://www.newyorker.com/magazine/2020/03/23/to-have-and-to-hold-in-quarantine-and-in-health) (visited Apr. 11, 2020) (quoting Los Angeles divorce attorney Laura Wasser: "A quarantine experience, particularly where there are underlying issues of resentment and poor communication, could be devastating to a marital relationship").

<sup>39</sup> *Id.* (also quoting Wasser: "It could be an excellent opportunity to reconnect with your spouse," and "if a couple is on lockdown, it could reanimate their sex life.").

<sup>40</sup> Kurtis Lee and Michael Finnegan, *Pandemic deaths pass 100,000 globally*, L.A. Times (Apr. 11, 2020) p.2.

<sup>41</sup> 29 U.S.C. § 2102; Cal. Labor Code §§ 1400-1408.

<sup>42</sup> 29 U.S.C. § 2102(b)(2)(A); 20 C.F.R. § 639.9(b).

<sup>43</sup> *Hercules, Inc. v. United States*, 24 F.3d 188, 204 (Fed. Cir. 1994).

<sup>44</sup> Cal. Civil Code § 1511.

<sup>45</sup> Stephanie Francis Ward, *A remote LSAT is scheduled for May because of coronavirus*, ABA Journal (Apr. 8, 2020) [www.abajournal.com/news/article/in-may-the-lsat-will-be-administered-remotely](http://www.abajournal.com/news/article/in-may-the-lsat-will-be-administered-remotely) (visited Apr. 11, 2020) ("Because of the novel coronavirus pandemic, a remotely proctored version of the LSAT, which can be taken at home, will be offered in May, the Law School Admission Council announced.").

<sup>46</sup> Stephanie Francis Ward, *Three states postpone July bar exam; will others follow?*, ABA Journal (Mar. 30, 2020) [www.abajournal.com/news/article/new-york-postpones-july-bar-exam-will-other-states-follow-connecticut-massachusetts](http://www.abajournal.com/news/article/new-york-postpones-july-bar-exam-will-other-states-follow-connecticut-massachusetts) (visited Apr. 11, 2020) (Connecticut, Massachusetts and New York).