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Liability waivers becoming commonplace as businesses anticipate COVID-19 lawsuits



People being asked to sign waivers at many spots.



By: Zach Crenshaw

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PHOENIX — As businesses re-open, Arizonans will have to adjust to a "new normal." That means masks, social distancing, and in some cases liability waivers.

If you have not already encountered a liability waiver, you likely will be confronted with something to sign soon.

"It was surprising at first, but I've heard of other places doing it," said Riley Behrens.

Behrens was asked to sign a waiver before seeing his doctor the other day.

"I did read [the waiver] and I was kinda shocked at what it said. Basically, if you get sick we're not liable. You can't sue us, your family can't sue us," said Behrens.

Behrens reluctantly signed the form. "It kind of made me uncomfortable to get that from the doctor but at the time I didn't have a choice because I needed to seen," he said.

Steve Nielson meanwhile, says he will never agree to his Val Vista Lakes Community Association waiver.

"I believe there will be a full-scale revolt," said Nielson.

The Gilbert neighborhood HOA initially sent a letter waiver with no dates and few details. "They forgot to put in the part about COVID-19," said Nielson, incredulous that the HOA leaders would try to obtain signatures prohibiting any and all lawsuits.

Nielson also said the document did not mention anything about the proactive measures the HOA was taking to keep residents in the neighborhood safe from contracting the virus.

"In a rush to address liability, they had left out critical components like, what's the management plan?"

That document has since been tweaked to be more specific and narrow - lawyers say that is a necessity.

"In order for a waiver to be valid, it has to be clear, and unambiguous," said Marc Lamber, head of the personal injury department at Fennemore Craig.

Lamber says it is important to know what you're signing and why. "It's an intentional relinquishment of a known right. So, you are signing away your right to do something," said Lamber. If you're going to do that, my recommendation is to read it, understand it, and then decide - are you willing to sign it or not?"

If you refuse to sign the waiver though, there may be repercussions.

"You're not going to be able to be a member of that gym, as one example. So I think the owner has the right to say no," said Lamber.

Not all owners will enforce the waivers, and it is unclear how apartments and HOA's will police things like their semi-public pools.

Lamber also says you can always push back if you do not like the language used in the waiver. "I have at times revised of them. And put in my own language, and I've watched businesses accept that," he said.

There will likely be lawsuits about these waivers aimed at preventing lawsuits. Businesses will have the tough decision of weighing liability protection with the risk of upsetting customers.

"I think businesses need to be careful. Because I think the overuse of waivers could backfire," said Lamber. "It could cause those customers to get scared or become offended."

"We have to trust each other to make good sound decisions," said Nielson.

Businesses may also choose to hang signs saying, essentially, "you are doing 'x' at your own risk."

Like liability waivers, the signatures alone will not prevent the businesses from being sued, but it may make it harder for someone to take them to court and win.

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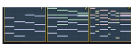
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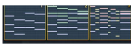
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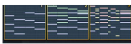
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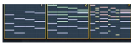
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