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KOLD FACT FINDERS

Fact Finders: Will a COVID-19 liability waiver hold up in court?



(Source: Gray Media Group)

By **Melissa Egan** | May 29, 2020 at 4:47 PM MST - Updated May 29 at 4:47 PM

TUCSON, Ariz. (KOLD News 13) - Have you been asked to sign a release before entering a business? Did that business ask for a signature before the coronavirus outbreak?

More business owners could be considering a liability waiver when reopening as we continue to track the spread of COVID-19 in the community to reduce the risk of a lawsuit.

[[Fact Finders: Can a customer prove they caught COVID-19 at a particular business?](#)]

But, will a jury think that liability waiver is enforceable? How do Arizona courts generally view negligence liability waivers?

"The answer, in Arizona at least, is rarely. Doesn't mean that they're not. That they're hard to enforce those," said **Marc Lamber**, head of the Fennemore Craig personal injury department.

While owners may think they are reducing a risk of a liability lawsuit, by getting customers to sign the "contractual assumption of risk," Lamber said it shouldn't be considered as a shield.

[[Fact Finders: More businesses may add liability waivers. Do customers have to sign?](#)]

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"Courts look at them with a skeptical eye and they are strictly construed against the party that drafts them," said Lamber.

Lamber said he does think more businesses may consider drafting a waiver, but doesn't believe they will become a "new" normal for all businesses because owners now have to evaluate it's risk.

[[Fact Finders: Three things a liability waiver needs to have](#)]

"There are some benefits with a release or a waiver, with the hope it's going to deter lawsuits ad claims but on the other side you can be in a position to alienate or scare customers," said Lamber.

Personal injury claims will not be the only litigation to come with COVID-19, Lamber said. He expects to see, and is already seeing in some cases, worker's compensation claims, businesses filing lawsuits with insurance companies and contract lawsuits.

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AUTHOR

Melissa Egan

Tucson



From the Surahine State, Melissa grew up in Cooper City, Florida, a suburb of Ft. Lauderdale.

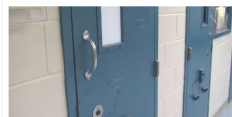
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