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COVID & RETURNING TO THE OFFICE: *WHEN IS THE RIGHT TIME?*

THE LANDSCAPE

We're hearing from so many clients who are struggling to decide when to reopen their office and bring employees back. Employees (and business owners!) are scared of what it means to return to "normal" life when COVID is still very much an active issue. Despite the good news that cases are trending downward, there is still no vaccine, and all signs point to a long road before that happens. In the meantime, however, employers are still paying rents on offices, and once "stay at home" orders are lifted, there will still be tough decisions to make and issues of HR compliance to work through.

SOME KEY CONSIDERATIONS FOR REOPENING OFFICES

1. **How much is the business hindered right now?**
   Are there things that can only be done in office and are not getting done now? Can any of that be solved by technology? If you are primarily driven by the worry that employees are not working as hard at home, then think about strategies for increasing employee effectiveness while working from home

2. **New workplace safety rules and guidelines, such as:**
   - providing PPE to employees
   - arranging for cleanings on top of what is normally done
   - social distancing to ensure that employees are able to keep a safe distance from each other, through both re-structuring physical layouts and perhaps rotational schedules
   - will you want to take employee temperatures?

3. **Employee fears**
   - Even once state and local governments give the green light to go back to work, employees will be scared and they are going to be placing a lot of that fear onto their employer. This will come in various forms, such as requests for special accommodations, leaves, and complaints (see next item)

4. **Employment litigation risks (EPLI):**
   - EPLI issues related to COVID are on the rise and will likely continue to do so (perhaps until there is a vaccine and COVID is seen as on par with the flu). So, consider the possibility that the sooner employees come back to the office, the higher-risk these issues are.
     Examples:
     - An employee has been coming to work and later finds out they are positive and has been spreading the virus at the office, including face to face meetings, touching all of the kitchen surfaces, etc. This employee attempts to blame the employer for making them come to the office and then points to unsafe conditions and/or lack of enforced social distancing? Also, other employees who were in contact with this employee raise issues.
     - Rotational schedules disproportionately favor one protected group over another (Examples: An African-American or Hispanic employee is asked to come to the office more than others. On the flip side, a manager forces a pregnant employee to NOT come to the office in order to protect her, but in doing so, the pregnant employee misses out on an important sales meeting.