

# All You Need to Know on the Latest with COVID-19

Laura Rubenstein, Esq., *Wright, Constable & Skeen, LLP*  
Gregory P. Currey, Esq., *Wright, Constable & Skeen, LLP*

March 31, 2020



# Questions?

During the webinar if you have any questions please feel free to...

- Text Richard: (443) 250-8606
- Email Richard: [richard@silbs.com](mailto:richard@silbs.com)
- Zoom Chat: Enter questions via the “Chat” feature in the Zoom meeting



# Upcoming Webinars

**APRIL 2<sup>ND</sup>, 1 PM – 2 PM EST**

Coronavirus COVID-19 Webinar

Presenter: Danielle Capilla

**APRIL 7<sup>TH</sup>, 9 AM – 10 AM EST**

Webinar with Smith & Downey

Presenters: Doug Desmarais, Esq. & Adam Meehan, Esq.

**APRIL 8<sup>TH</sup>, 12 PM – 1 PM EST**

How to Prepare for a DOL Audit

Presenter: Stacy Barrow, Esq.



# Coronavirus Updates

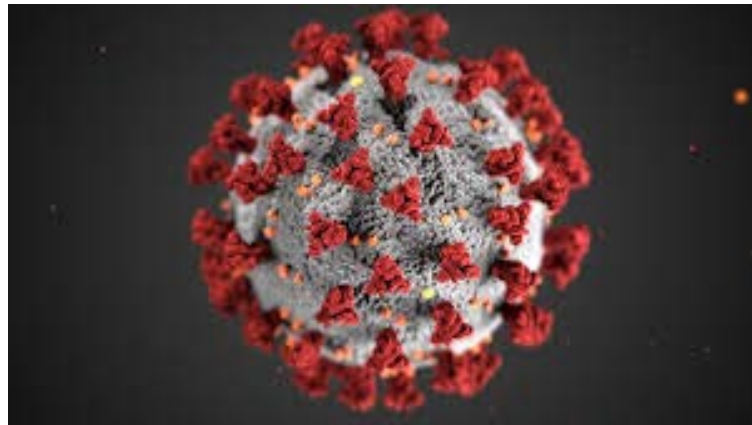
Visit our Coronavirus Resource Center for the latest information on Coronavirus (COVID-19) including:

- Upcoming Webinars
- Key Documents
- Links to Articles & Insights
- Wellness Resources
- COVID-19 Dashboard of CDC & World Health Organization

<https://www.silbs.com/sig-coronavirus-resource-center>



# All You Need to Know on the Latest with **COVID-19**



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BY: LAURA L. RUBENSTEIN, ESQ.  
AND GREGORY P. CURREY, ESQ.

# Objectives

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- In this webinar, we will discuss:
  - How to maintain business as usual (or the closest thing possible)
  - How COVID-19 and the ADA interact
  - The Families First Coronavirus Response Act
  - How to manage layoffs, furloughs and reductions in force (RIFs)
  - The latest developments – stimulus, assistance for business owners

# Meet Laura L. Rubenstein, Esq.



- Represents employers
- Focuses on compliance issues, sensitive harassment and discrimination issues, navigates through policies and practical application of ADA, FMLA, FLSA, etc.
- Experienced litigator & counselor

# Meet Gregory P. Currey, Esq.

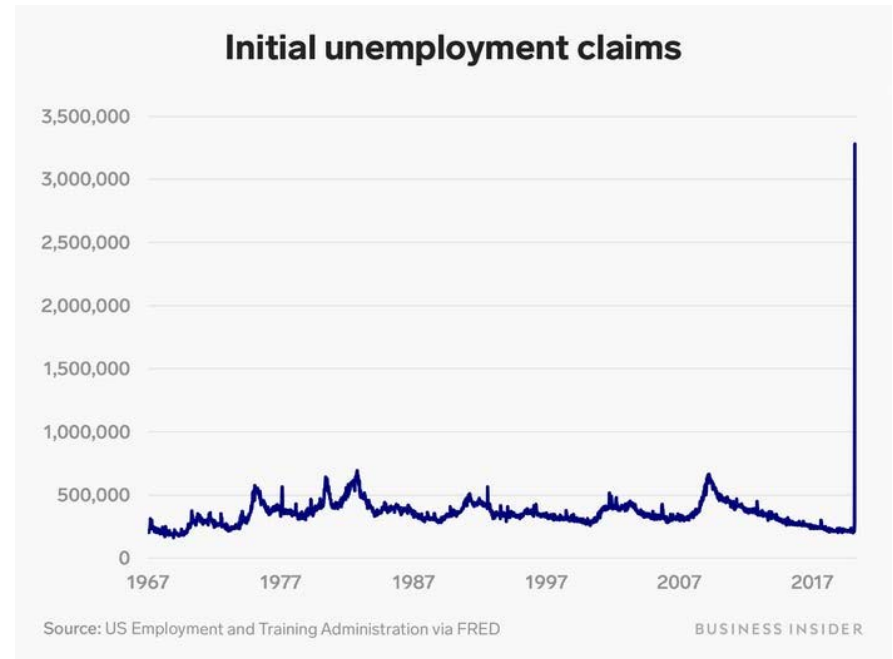


- Focuses on compliance with Title VII, ADA, FMLA, FLSA, and immigration.
- Counsels on practical impact of policies and procedures, drafts and negotiates contracts, handbooks, and internal policies
- Experienced litigator & counselor



# Current Status

- Non-essential businesses have been closed and services limited
- Schools and daycares closed indefinitely
- Legislation passed creating paid leave for employees
- Modification of state unemployment benefits
- Legislation passed for a significant stimulus



# Maintaining Daily Operations

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Recommendations for businesses remaining open:

- Reduce exposures with virtual or telephonic meetings, environmental changes, and more.
- Make cleaning supplies available, and target high-touch items like doorknobs, handles, bathrooms, coffee makers, and more
- Create a ritualistic culture among employees and consider an increased cleaning schedule.

# Maintaining Daily Operations

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Are telework or reduced schedules possible? Key items to consider:

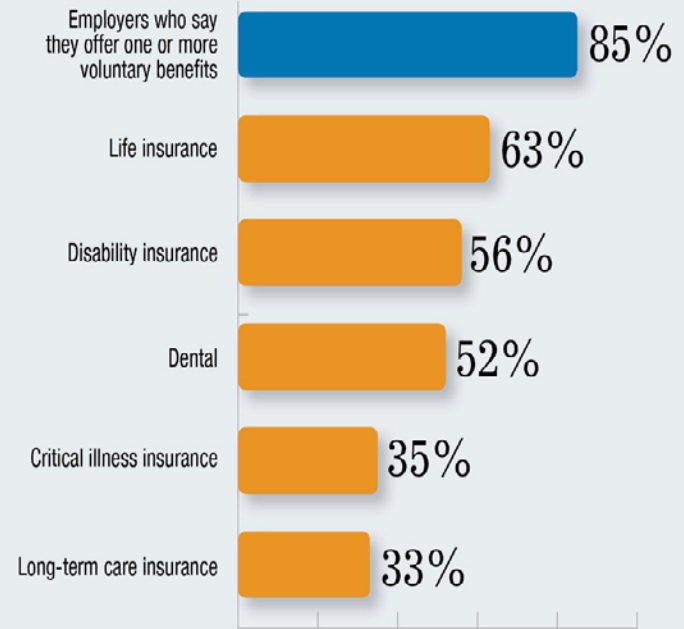
- Social distancing guidelines
- Maintain clear policies and expectations around telework
- Are there essential functions that require in-person presence?
- For employees who are required to travel, when will travel be possible again?
- Do you have methods to communicate with all employees?



# Benefit Reminders

- Health benefits - Telemedicine, Urgent Care, PCP, etc.
- Leave benefits - Sick-leave, PTO, Short-Term Disability, FMLA, Flexible Leave, etc.
- Mental health benefits - Employee Assistance Programs, talk therapy, etc.
- Financial wellness - Retirement planning, family budgeting, etc.

## Voluntary benefits offerings



Source: Prudential's Sixth Annual Study of Employee Benefits: Today & Beyond

# Employer Liability - FAQs

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- Am I liable to an employee if they contract COVID-19 at work?
- Am I liable to an employee's spouse or family members if they contract COVID-19 at work?
- What precautions am I required to take to protect my employees?
- What should I do if I have an asymptomatic employee refusing to work due to fear of contracting COVID-19?

# COVID-19 and the ADA

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The EEOC has issued guidance as to what steps an employer may take to protect its workforce from COVID-19

- Employers are permitted greater leeway in asking employees questions about symptoms of COVID-19
- Employers can prevent employees showing symptoms from working
- Employers must still retain confidentiality of identity of any employee diagnosed with COVID-19

# COVID-19 and the ADA

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Frequently asked questions:

- May I require that employees have their temperature taken before coming in to work?
- May I require a doctor's note confirming that an employee has not been diagnosed?
- What information can I provide to co-workers who may have been exposed to an employee with COVID-19 or COVID-19 symptoms?

# The Families First Coronavirus Response Act

## H.R. 6201 – The Families First Coronavirus Response Act

- Enacted on March 18, 2020
- Effective April 1, 2020
- Two major components for employers are additional paid sick leave and paid FMLA leave for child care leave





# Paid Sick Leave

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Six Qualifying Reasons, three are paid at any employees regular rate, up to \$511 per day

1. The employee is subject to a federal, state, or local quarantine or isolation due to COVID-19;
2. A health care provider advised the employee to self-quarantine due to concerns related to COVID-19 (self-imposed quarantine without medical advice does not qualify under the Act);
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

# Paid Sick Leave (cont.)

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The remaining three qualifying reasons are paid at 2/3 the employee's regular rate, up to \$200 per day

4. The employee is caring for an individual who is either subject to a federal, state, or local quarantine or isolation due to COVID-19 or has been advised to self-quarantine due to concerns related to COVID-19;
5. The employee is caring for the employee's child whose school has been closed or place of care is unavailable due to COVID-19 precautions; or
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretaries of Treasury and Labor.

# Paid Sick Leave (cont.)

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Frequently asked questions:

- What verification can I require?
- Can I require a return to work note?
- How are part-time employees handled?
- Who pays for the leave?
- What if an employee is laid off before April 1?
- Can an employee who is teleworking also receive paid caregiver leave?

# Extended Family and Medical Leave

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Creates paid FMLA leave if an employee is unable to work (or telework) due to a need for leave to care for a minor child due to closures related to a public health emergency.

- Applies to all employers with fewer than 500 employees
- First two weeks are unpaid, last 10 weeks are paid at 2/3 of an employee's regular rate, up to \$200 per day
- Employees are eligible after only 30 days of employment
- Employers with fewer than 25 employees do not have to reinstate subject to certain conditions
- Employers with fewer than 50 employees may apply for an exemption

# Extended Family and Medical Leave

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Frequently asked questions:

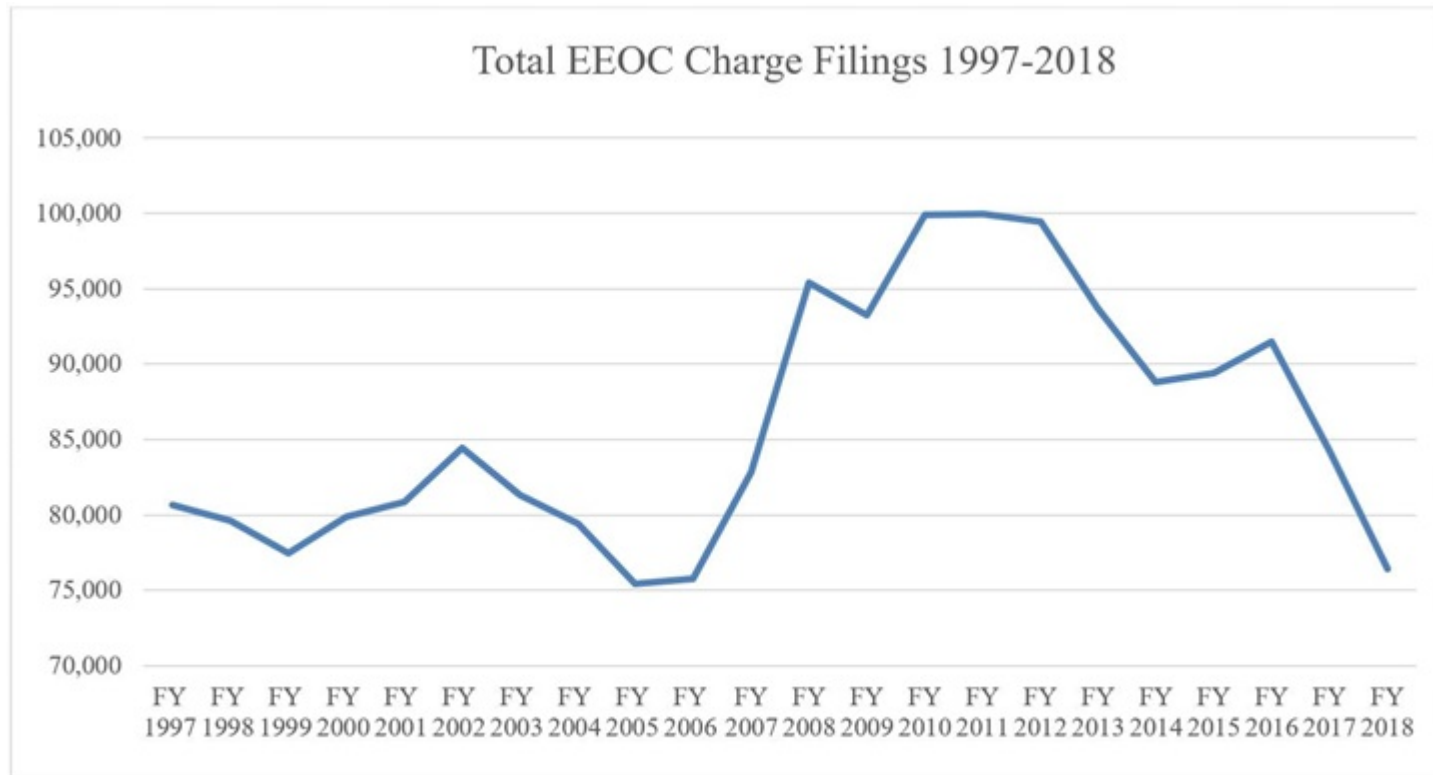
- Can the leave be used on an intermittent basis?
- Does the paid FMLA leave extend to all qualifying FMLA leave?
- What information can I request for verification?
- What if I have reason to believe that an employee's spouse is also taking the paid FMLA leave?
- Do summer camps count as "child care providers?"

# Furloughs, Layoffs and RIFS

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- Difference between a furlough and a layoff
- When do you furlough vs. when do you layoff?
- Considerations for exempt employees
- What should be communicated to employees?
- Will you offer severance?
- If you offer a severance and require a release, ensure compliance with the OWBPA

# Furloughs, Layoffs and RIFS



# Recent Developments

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- \$2.2 trillion dollar stimulus
- Updates on school closures and business closures
- Relief for small business owners
- Federal agency guidance updates



# Questions?

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**Laura L. Rubenstein, Esq.**

410-659-1347

[LRubenstein@wcslaw.com](mailto:LRubenstein@wcslaw.com)

**Gregory P. Currey, Esq.**

410-659-1354

[GCurrey@wcslaw.com](mailto:GCurrey@wcslaw.com)

Wright, Constable & Skeen, L.L.P.

7 St. Paul Street, 18<sup>th</sup> Floor

Baltimore, MD 21202

[www.wcslaw.com](http://www.wcslaw.com)

# Thank You for Attending!

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