

## HEALTH & SAFETY

### OVERVIEW

Laws affecting health and safety at work ensure that never before have employers been faced with so many responsibilities relating to the welfare of employees in the working environment. We have a recognised Health & Safety team in the UK and U.S. with extensive experience dealing with issues ranging from providing advice, to dealing with a range of enforcement issues, including prosecution (some involving fatal accidents).

We represent clients of all types and sizes including Fortune 100 companies, family-owned businesses, manufacturers, contractors, service providers, landlords, hospitals, universities, merchandising and distribution companies, among many others. Through our significant experience we know many inspectors and key government officials which allows us to provide the best possible insight and advice to our clients both sides of the Atlantic.

We regularly deal with a wide range of health and safety matters, including investigations by the Health and Safety Executive and local authorities in the UK. We also provide technical and strategic advice to clients in relation to a wide range of compliance, development and operational issues. In particular, we have enjoyed success in defending clients and proceedings brought before the Courts for fatal accidents, as well as lesser injuries. We also attend and represent clients at inquests in preparation for subsequent prosecutions under health and safety legislation.

The team has advocacy experience of both prosecuting and defending health and safety matters thereby giving them a unique insight into the regulatory process from both sides of the courtroom. Jeremy is a noted solicitor advocate has obtained his criminal higher rights of audience.

We have also been active in advising many clients in relation to their responsibilities under the Corporate Manslaughter Act which recently came into force. This Act is of concern to institutional lenders who may be caught by its provisions and we have seen a notable increase in concern from banks and lenders about this potential new liability.

Many industry consultants and trade associations choose our group when seeking advice on complicated regulatory matters and providing seminars to their members.

We have significant experience in relation a number of niche specialist areas, for example in relation to fire precautions. We not only advise clients generally as to the requirements of the legislation but

also provide practical advice on the implementation of systems and procedures to comply with the legislation.

## MEET THE TEAM



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## EXPERIENCE

- Acting as lead advisors for the Olympic Delivery Authority in relation to the construction and delivery of the Olympic venues at the 2012 London games
- Advised various clients post the Grenfell Tower tragedy in relation to fire safety issues. For example, he advised a large UK company in relation to its involvement with Grenfell Tower and

provided responses to the public inquiry in relation to its role and responsibilities. Another example included, dealing with H&S issues arising from the refurbishment of large multi-let building (including residential units) and fire safety concerns raised by tenants post “Grenfell”.

- Acting for a hotel property owner in relation to a structural collapse at one of its hotel assets managed under a hotel management agreement and where significant injuries were sustained by guests. Dealing with the ongoing investigation and providing technical advice in relation to remedial works required.
- Acting for a UK utility company in relation to investigations into alleged defects with historic infrastructure and assisting the client to avoid formal enforcement action.
- **General OSHA Compliance Counseling.** We counsel clients concerning virtually all areas of Occupational Safety and Health Law and state level counterparts. We help clients draft, implement, and audit their health and safety programs; interpret OSHA regulations and apply them to real world situations; prepare requests for variances; advise how to prepare for OSHA inspections including inspections immediately following fatalities, amputations or industrial incidents; preparing comments regarding proposed rulemakings; and defend enforcement actions.
- **Representation During OSHA Inspections.** When an OSHA inspector arrives at a facility, managing the inspection process and responding to the information requests can significantly affect the course of the inspection and the scope of any ensuing enforcement. Our attorneys have extensive experience in managing government inspections and helping clients mitigate related enforcement risk.
- **Enforcement Defense** BCLP routinely represents clients who have received a citation, “whistleblower” complaint or other notice signifying the commencement of an OSHA investigation (e.g., deposition notice or order). We are often able to resolve enforcement matters through “informal settlement conferences,” but we also routinely represent clients who contest citations and defend them in matters brought before the OSHA Review Commission or comparable state organization.
- **Retaliation and Whistleblowing Complaints.** Under Section 11(c) of the OSH Act, OSHA has authority to enforce against employers alleged to have taken an adverse employment action against an employee for exercising rights under the OSH Act, and we frequently defend employers during these investigations and any subsequent enforcement matters.
- **Union Relationships and OSHA.** Occasionally employers see an increase in the number of employee complaints filed with OSHA during collective bargaining activities. We have experience in understanding the underlying labor matters, communicating with OSHA and

union officials, and advising employers regarding their rights and how to respond to complaints.

- **Transactional Due Diligence.** Understanding risks and liabilities associated with a labor force and whether a facility is operating in a safe and healthy manner is often important to properly evaluating and valuing a business acquisition, and we regularly perform the necessary due diligence to understand risks and liabilities associated with a target.
- **OSHA Audits.** Maintaining compliance with the ever changing regulatory landscape is challenging for all companies and we frequently help clients evaluate their level of compliance by engaging consultants to assist with compliance audits. We use the audit results to advise clients regarding their compliance obligations and steps to follow to mitigate enforcement risk. OSHA recordkeeping is a compliance issue that is examined by the Agency during virtually every inspection. We conduct audits of employers' logs and recordkeeping practices, and conduct recordkeeping training classes.
- **White Collar Criminal Defense.** BCLP has significant experience in defending clients in white collar criminal enforcement matters and our team includes attorneys who previously were members of the United States Attorney's office or the United States Department of Justice.
- **Defense of Personal Injury Claims.** Any time a serious industrial accident or death involves an employee, there is a risk that the employee or the employees' surviving family may attempt to sue a company directly or indirectly by suing an equipment manufacturer or other potentially responsible third party. We regularly defend clients in these matters and help them navigate worker compensation laws and insurance claims.

## RELATED INSIGHTS

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## **Postponement or cancellation of sports events - COVID 19 impacts in Hong Kong SAR, Singapore and Malaysia:**

The COVID-19 pandemic has led to the implementation of various temporary laws and regulations for social distancing in Hong Kong SAR, Singapore and Malaysia. In this article, we will discuss the relevance of these laws and regulations in the context of the sports industry, as well as the implications of force majeure clauses for sports event organisers and legal issues to be considered if a sports event is postponed or cancelled.

Insights

May 07, 2020

### **What do I do if a person suspected or confirmed to have COVID-19 has been at my U.S. facility?**

If you have a confirmed or suspected COVID-19 case tied to your premises, what you should do depends on whether the person is an employee or an invitee, such as a customer or business guest. While the rules are similar, there are some distinctions.

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### **COVID-19 and Employer Obligations - PRC Update**

COVID-19 outbreak has the world on high alert. As governments ramp up efforts to contain the spread of the virus, employers also need to be aware their obligations and take necessary precautionary measures at the workplace to protect the safety and health of their employees. In this article, we discuss some frequently asked questions.

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### **COVID-19 and employer obligations in Hong Kong SAR**

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Mar 18, 2020

### **The Supply Chain Challenge: Four Steps to Make Sure Shelter In Place Laws Don't Disrupt Your Supply Chain**

In light of the Bay Area implementing Shelter in Place ordinances, such laws are now being considered throughout the country. This alert provides actionable steps companies can take to ensure that Shelter in Place laws in their jurisdictions do not inadvertently block employees from getting to work at their Essential Businesses.