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# Downplaying or Concealing Coronavirus Risk Could Result in Consumer Protection Lawsuits

In the wake of coronavirus fears impacting many consumers' vacation planning, companies in the hospitality industry should not be tempted to downplay or conceal any risks around COVID-19 exposure. Reports surfaced on March 12 that managers at a major cruise line encouraged sales teams to downplay and even misrepresent risks associated with COVID-19 in order to continue bookings. Emails from managers within the company instructed employees to call more than 150 people a day and tell them that the virus "cannot live in the amazingly warm and tropical temperatures that your cruise will be sailing to," and that "the only thing you need to worry about for your cruise is do you have enough sunscreen?" Given that the State Department has specifically warned consumers against booking cruises during this pandemic, and that there is no definitive scientific evidence to support claims that COVID-19 will not survive in warmer temperatures, these statements likely violate federal and state consumer protection laws that prevent companies from making affirmative misrepresentations to sell their products.

What may be less obvious is that failure to report or disclose suspected COVID-19 exposure can also lead to consumer protection law violations. All states, either expressly or impliedly, include the failure to disclose a material fact as a deceptive practice under their unfair and deceptive acts and practices (UDAP) laws. The Federal Trade Commission's Policy Statement on Deception similarly clarifies that deception can result from a representation or omission that is likely to mislead the consumer. As several state laws allow for private rights of action in addition to government enforcement, plaintiffs' lawyers or government regulators could claim that a hotel, resort or restaurant that failed to disclose a COVID-19 exposure failed to disclose a material fact to improperly induce sales. As more events are canceled, schools are closed and emergency measures are declared, the argument that COVID-19 exposure is a "material fact" in consumer decision-making grows stronger. Consequently, in addition to running afoul of laws requiring reporting to public health agencies of any suspected cases of COVID-19, discussed in this previous client alert, lack of transparency on COVID-19 exposure could also result in costly consumer class action lawsuits or government investigations.

In sum, companies considering whether to report or disclose suspected COVID-19 exposure need to be mindful of both public health concerns as well as potential consumer protection liability.

[Click here](#) to read more *Brownstein alerts on the legal issues the coronavirus threat raises for businesses.*

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