Agenda

• Insurance Update
• Dealing With Your Leases in Age of COVID-19
• Insights from Sysco on Preparing Your Menu For The SnapBack
Insurance Update

Sheri Pastor
Chair
McCarter & English
Insurance Update

Pollution Liability Policies
Consider pollution policies, particularly in light of insurer positions on property coverage

Insurer agrees to pay loss resulting from “claims” and “first-party claims” arising out of: 1) a “pollution condition” on, at, under or migrating from a “covered location”; or 2) an “indoor environmental condition” at a “covered location” . . .

Pollution condition means the discharge, dispersal, release, escape, migration, or seepage of any solid, liquid, gaseous or thermal irritant, contaminant, or pollutant, . . . on, in, into, or upon land and structures thereupon, the atmosphere, surface water, or groundwater.
Insurance Update

Legislation

States have pass or are considering laws granting businesses immunity from civil liability for claims relating to COVID-19

• Not absolute
  E.g., NC (no bar for regulatory actions, criminal charges or workers’ compensation claims, and offers no immunity for gross negligence, recklessness or intentional infliction of harm)

• Likely requires adherence to applicable laws and guidance
  E.g., CDC guidelines for sanitizing
Dealing With Your Leases in Age of COVID-19

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Tenant Issues to Consider

• Has Landlord closed the building where the Tenant's workplace is located?
• Is the building closure mandated by the government?
• Is closure of Tenant's workplace mandated by the government?
• Has closure of Tenant's workplace affected business operations?
• Does Tenant carry business interruption insurance?
Applicable Lease Provisions

A. Independent Covenants
   • Obligation to pay rent without setoff or deduction.

B. Possible relief provisions for Tenant
   • Abatement provisions
   • Force Majeure
   • Compliance with laws
   • Casualty
   • Condemnation
   • Interruption of Services
   • Right of Quiet Enjoyment
   • 24/7 Access to Premises
   • Maintenance of Common Areas
Applicable Lease Provisions

C. Landlord Position

- Leases typically require Tenant to pay rent without setoff or deduction
- Needs Lender consent to modify leases or grant any rent concessions
- Need to pay Real Estate Taxes
- Rules and Regulations
- Security
- Compliance with Laws

D. Other Issues

- Delivery date
- Construction of Tenant Improvements
- Holdover
Common Law Rights

- **Impossibility** – A party can be excused from performing under a contract when it becomes impossible to perform as a result of an unanticipated event which it did not cause. Inability to pay usually does not excuse performance.

- **Frustration of Purpose** – If a party's principal purpose is substantially frustrated by unanticipated changed circumstances, that party's duties are discharged and the contract is considered terminated. Unprofitability usually does not excuse performance.

- **Impracticability** – A fact or circumstance that excuses a party from performing an act, especially a contractual duty, because (though possible) it would cause extreme and unreasonable difficulty. For performance to be truly impracticable, the duty must become much more difficult or much more expensive to perform, and this difficulty or expense must have been unanticipated.
Tenant’s Options

- Pay rent as required under the lease.
- Pay rent but send reservation of rights letter.
- Withhold rent.
- Review insurance policies to determine if there is any coverage.
- File insurance coverage claim to preserve rights regardless of language of policy.
- Review SNDA – Does tenant need to notify lender prior to withholding rent?
**Real Estate**

**Consequences of Withholding Rent**

- Landlord may declare a default under the lease.
  - Default may trigger clawback of free rent.
  - Default may terminate renewal, expansion, purchase, right of first refusal or other rights under the lease.
  - Landlord may terminate the lease.
  - Landlord may pursue an eviction (but many Landlord/Tenant courts closed for now).
  - Some states allow self-help without judicial action.
- Landlord may realize on security.
- Landlord may pursue any lease guarantor (corporate or individual).
- Does a default under the lease trigger a default under credit facilities for the tenant or any lease guarantor?
Real Estate

- **Practical Resolutions**
  - **Government Relief**
    - Pending legislation providing that closures due to COVID-19 closures are covered under business interruption policies. Insurance companies are sure to challenge any such statute.
    - Some jurisdictions may prohibit evictions due to COVID-19 issues.
    - Is Tenant eligible for Small Business Administration loans or any local government grants relating to COVID-19 losses?
  - **Negotiate with Landlord and Lender**
  - **Amend Lease**
  - **Litigation**
Going Forward: How Will Leases Look?

A. Knowing your Landlord and Tenant

B. Operational Excellence
   - HVAC Specifications
   - Cleaning Specifications
   - Elevator
   - Density Requirements
   - COVID-19 Control Plan
Going Forward: How Will Leases Look?

C. Term
   • Length
   • Contraction Rights
   • Expansion Rights
   • Exit Strategies

D. Subleases

E. Operating Expenses

F. Interruption of Services

G. Force Majeure
Insights from Sysco on Preparing Your Menu For The SnapBack

Bruce Barnes
Menu Expert
Sysco Corporation
Reimagining Your Menu

As you reopen your business and dine-in services, you will need to most likely reimagine and re-engineer your menu to meet the new expectations of your customers. Single-use, easily sanitized, digital display or contactless menus are recommended (or in some cases required) and serve as a clear indication of your commitment to safety and sanitation.

- Consider streamlining your menu and reducing offerings to those items that are profitable, popular, easy to prepare and portable
  
  Determine those items you can utilize across multiple dishes
  
  This will also help with your inventory and lower your overall food cost

- Review current item costs and make pricing adjustments based on current market conditions

- Consider changing format to single sheet, disposable paper menu or viewing online for best safety and sanitation practices

- Continue to offer carry-out, delivery, and other enhanced services, such as meal kits, family packs, value meals, take & bake options and specialty items

- Introduce or enhance online ordering capabilities for the dine-in guest at the table

- Single use menus, synthetic, or QR Code to pull up menu on guest’s phone or tablet for contactless ordering

- Create or continue with your on-site pop up shops or virtual "marketplace" to sell your signature items and other essentials

Reengineer Your Menu for Snap-Back!

Manage Your Menu Content – 4P’s of Menu Engineering:

**PROFITABILITY**
- Review current item costs and make pricing adjustments based on current market conditions.
- Identify areas where you can switch out ingredients to enhance profitability without compromising quality.

**POPULARITY**
- Feature your signature items – what are you famous for?
- Review past history or competitive analysis for key offerings.

**PREPARATION**
- Select items that require limited preparation and assembly.
- Cross-train your kitchen staff for maximum efficiency.
- Review and reduce your inventory to minimize stand-alone items and excess stock.

**PORTABILITY**
- Ensure your items package and travel well – maintaining their quality and freshness.
- Invest in the proper carryout containers to maintain temperature and presentation to most closely mirror dine-in experience.

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Contactless & Disposable Menus on the rise

QR codes link customers to your:
- Contactless dine-in menu
- Online ordering for carryout and delivery
- Website, social media, and image gallery
- LTO’s, special features, and promotions
- Virtual “marketplace” to sell signature items, family-style bundles, and take & bake meals

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Marketing to the New Norm

Staying connected with your guests has never been more critical than it is now. Traditional ways of communicating with your guest that dine in have changed overnight and are no longer effective. Inform your customers of the safety standards and sanitation protocol you have implemented to reassure them that their safety is your number one priority.

Create EXCITEMENT!
- Communicate frequently and authentically with your customers via your website and social media.
- Utilize banners and posters for interior and exterior signage to clearly convey your message.

Social Media
- Post often (We Missed You, Welcome Back, Thank You for Supporting Us, Safety Practices, Live Videos)
- Be responsive

Website
- Online orders
- Menu, takeout, delivery, and curbside offerings

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#foodservicestrong
Marketing to the New Norm

Pop-Up Shop – speak to it, advertise, include in online ordering, etc.

Provide special incentives:
• Loyalty cards for every guest
• Discounts to those in-dining guests for a food purchase of $x amount
• Offer daily meal deals – guests will be looking for value
• Provide incentive for curbside pickup saving your guest the fees plus saving you the 3rd party fee
• Offer gift cards if you are not currently
• Email your customers often

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CARRYOUT & DELIVERY MENU
Call 515-989-0138

APPETIZERS
- Cheese Sticks
  Breaded cheese sticks with a side of marinara sauce $8.99
- Fried Fettuccine
  Wide, cheese, or combo $8.95
- Cheese Bread
  Half a cheese bread with a side of marinara sauce $9.95
- Pickle Fries
  Served with a side of ranch $8.99

SANDWICHES
- Shrimp Alfredo in pasta bowl of the day
- Fried green beans or ham salad $8.99
- Italian wedding Specials
  Three types of meat and vegetables, served with a choice of pasta, salad, or fries $9.99
- Italian Sub
  Ham, provolone, pepperoni, cheese, and vegetables $9.99
- Sausage Patty
  Bruschetta style meat with a choice of pasta, salad, or fries $9.99
- Italian Club
  Grilled chicken breast, lettuce, tomatoes, and mozzarella cheese, served on bread $9.99
- Cheeseburger
  American, pepper jack or cheddar cheese, lettuce, onion, and pickles $9.99
- Italian Burger
  Hamburger topped with capers, red wine, mozzarella cheese and ham $12.99

SALADS
- House Salad
  Spring mix, romaine and vegetables $9.99
- Italian Chef
  Caprese, grilled chicken and pepperoni topped with fresh spring mix and romaine with vegetables $9.99
- Chicken Salad
  Grilled chicken, avocado, pomegranate, and cheese on spring mix, romaine and vegetables $9.99

GOONIES FAMOUS WINGS
- Boneless Wings $10.99
- Bone-in Wings $12.99
- Bone-in Wings with Boneless Wings $14.99

WINGS
- 5 wings with your choice of sauces: buffalo, bbq, parmesan, spinach, or mozzarella $15.99

CHILI
- Medium $15.99
- Large $19.99

COCO & NINI'S ITALIAN RESTAURANT & LOUNGE
WE ARE OPEN FOR CARRY OUT
(308) 575-0302
OPEN Monday-Saturday
5:30 PM - 9:30 PM

THANK YOU!
To thank you for your business,
20% OFF your future orders until the end of April

BUCKS BEEF & BACON
- Our juicy beef is the best in the area
- Our bacon is hand-sliced

#foodserviceStrong
Concierge Service

Our Concierge Service available to any customer

- Crisis Menus, Pop Up Shop/Marketplace, Social Media, Thank you cards and other restaurant marketing materials to ensure continuity
- Provide guidance on what you could be doing to promote your business
- Provide guidance and facilitate our iCare Partnerships available to our customers
  - Websites to facilitate Online ordering
  - Delivery
  - Gift cards, etc.

For Marketing Services Help:

- Call: 1-800-380-6348 or
- Email: info@syscomenuservices.com

Concierge is here to help.

Sysco Marketing Services is here to help you reimagine your business with the steps for a successful Snap-Back!

As you move forward with reopening or expanding your services, it’s important that you strategize your snap-back plan. This includes current safety and social standards, the power of an online and social media presence, and the creativity and resilience of your team!

Our team of associates is available to assist you.
- Understand your local, state, and federal guidelines
- Communicate with your customers
- Streamline your business -- smarter, faster, better!
- Rethink your business and expand your services
- Reconfigure your space and implement social distancing measures
- Connect with our service partners to setup a website, online ordering, and delivery services
- Gain access to helpful tools, such as Sysco Studio

Let’s partner to create your menus and marketing.
- Limited menus for dine-in, carryout, and delivery
- Pop Up Shop menus and marketing
- Banners and signage to promote your safety and sanitation protocol
- Customer promotions and social media messaging

For our concierge service, call 1-800-380-6348 or email info@syscomenuservices.com

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