

# Webcast: Returning to Work: Health, Employment, and Privacy Considerations and Constraints as Businesses Resume Post-Quarantine Operations in the U.S.

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As businesses plan to resume or expand operations in a post-quarantine COVID-19 world, they face a complex, and sometimes conflicting, patchwork of public health, employment, and privacy considerations requiring them simultaneously to:

- Develop, implement, and continue to evaluate infection control programs—including PPE use, cleaning and disinfection protocols, social distancing and hand hygiene programs, and return to work policies—to reduce illness and transmission risk and keep up with evolving community health and industry standards.
- Evaluate, implement, and document enhanced worker screening and contact tracing programs to identify, respond to, and understand the root cause of worker illnesses.
- Implement screening and other programs with an eye to privacy, balancing the need to collect information with applicable and potentially conflicting privacy obligations arising under state constitutional and common law; statutes including the California Consumer Privacy Act, California’s Confidentiality of Medical Information Act, the Illinois Biometric Information Privacy Act, and various tracking and data breach statutes; and evolving general privacy principles of transparency, data minimization, confidentiality, and data security.
- Remain compliant with wage and hour obligations in a “new normal” of altered work schedules and arrangements and new activities ancillary to workers’ regular shifts that may include PPE use, additional personal hygiene steps, or employee screening requirements.
- Navigate the framework of federal and state employment law protecting employee rights, including those protecting potentially higher risk workers based on age or disability, worker health and safety obligations, and paid and unpaid leave rights, and be prepared to respond to employee concerns (and potential reluctance to work) while remaining sensitive to whistle-blower, anti-retaliation, worker speech.

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## PANELISTS:

**Karl Nelson** is a Gibson Dunn partner who advises and represents employers across the country in connection with employment law compliance and litigation, including with respect to fair employment practices, benefits issues, worker health and safety, whistle-blower claims, and collective bargaining rights and obligations. He has been actively

## Related People

[Karl G. Nelson](#)

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involved as part of the firm's COVID-19 Response Team in guiding clients across a range of industries in responding to the recent health crisis.

**Katherine V.A. Smith** is a partner in Gibson Dunn's Los Angeles office whose practice focuses on high stakes employment litigation matters such as wage and hour class actions, representative actions brought under the California Private Attorney General Act ("PAGA"), whistleblower retaliation cases, and executive disputes. In addition to litigation, Ms. Smith also dedicates a significant portion of her practice to advising employers on nearly all aspects of employment law, including those arising from the COVID-19 crisis.

**Alexander H. Southwell** is a nationally-recognized technology investigations lawyer and counselor, serving as global Co-Chair of Gibson, Dunn & Crutcher's Privacy, Cybersecurity, and Consumer Protection Practice Group. He represents a wide-range of leading companies, counseling on privacy, information technology, data breach, theft of trade secrets and intellectual property, computer fraud, national security, and network and data security issues, including handling investigations, enforcement defense, and litigation. Recently, he has focused on advising clients on cybersecurity and privacy issues relating to COVID-19 crisis management programs and has led a number of COVID-related pro bono projects.

**Cassandra Gaedt-Sheckter** is a senior associate in Gibson Dunn's Palo Alto office who focuses on cutting-edge privacy law compliance concerns for clients in a broad range of industries, including relating to federal, state, and international privacy and cybersecurity laws, and representing companies in technology-related privacy class action and IP litigation matters. She is a leader of the firm's CCPA Task Force, and has been particularly dedicated in recent months to advising clients on privacy and cybersecurity issues relating to businesses' implementation of COVID-19 crisis management and prevention programs.

**Dr. Christopher Kuhlman** is a board certified toxicologist (DABT) and industrial hygienist (CIH) with CTEH. Dr. Kuhlman specializes in toxicology, risk assessment, toxicity evaluations, and emergency response toxicology. Recently, he has been working with employers around the globe to meet the ongoing challenges of the outbreak of COVID-19.

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