

Jason Habinsky in Business Insurance: Bringing Select Workers Back Carries Litigation Risks: Experts

May 13, 2020 Jason Habinsky

PRACTICES Labor and Employment, OSHA, Employment Litigation

Haynes Boone Partner [Jason Habinsky](#) talked with *Business Insurance* about why employers that are inviting select employees to return to work after COVID-19 shutdowns must tread carefully to avoid potential discrimination claims.

Here is an excerpt:

Without analysis beforehand, employers could leave themselves open to charges of violation of federal laws including the Americans with Disabilities Act, the Age Discrimination in Employment Act, and Title VII of the Civil Rights Act of 1964, as well as state and local laws.

There is also the potential for wage and hour litigation, experts say.

They also point out that federal legislation now protects workers who cannot return to work because of child care issues.

Experts warn, too, that given the widespread unemployment created by the pandemic, some litigation may be inevitable, as desperate workers turn to it as a possible income source.

In deciding who will not return, employers should not target those who can be deemed susceptible to the Coronavirus, such as older employees, pregnant women or individuals with pre-existing conditions, said Jason Habinsky, a partner with Haynes Boone in New York, who is chair of the firm's labor and employment practices group.

"Employers need to be prepared to accommodate rather than discriminate," he said.

To read the full article, click [here](#).