

# Michael Mazzone, Mini Kapoor in Texas Builder: Protecting Your Company From Coronavirus-Related Premises Liability Claims

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**PRACTICES** Litigation, Construction Litigation, Products Liability Litigation

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Businesses preparing to reopen amid the coronavirus pandemic and the essential businesses that have remained open through the pandemic should make a good faith effort to implement health and safety measures recommended by the federal, state and local authorities to protect themselves from potential premises liability claims from third-parties such as customers and other non-employees entering the premises. In a premises liability action related to coronavirus, a claimant would likely need to prove that (1) coronavirus infection posed an unreasonable risk of harm on the premises; (2) the premises' owner had notice of the risk; (3) the owner failed to make the premises reasonably safe; and (4) the claimant was injured as a result.

The standard for the duty of care in a premises liability case may vary by jurisdiction. In Texas, a person who enters the premises with the owner's knowledge or permission (an invitee or a licensee) is owed a duty of care to maintain the premises in a reasonably safe condition. This duty of care includes the duty to inspect the premises for dangerous conditions that a reasonably careful inspection would reveal. Similarly, in New York, businesses have a duty of care to eliminate dangerous conditions and maintain safe premises.

While there may be no precedent or specific guidance from courts on the standard for maintaining premises regarding coronavirus, premises owners should expect that courts may use the governmental guidance for containing the spread of coronavirus infection in their jurisdiction to define the standard of the required duty of care. Thus, it would be prudent for owners to factor in the guidance and recommendations from the various federal, state and local institutions for preventing or minimizing coronavirus infection.

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