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INSIGHT: Contract Considerations for Marijuana Companies During Coronavirus

The COVID-19 pandemic continues to create economic issues for businesses large and small, and the marijuana industry has not been immune.

Numerous lawsuits have already been filed regarding risk allocation during the COVID-19 pandemic, and many more are sure to follow.

Marijuana companies should re-examine existing contracts and consider how exceptions to contract enforcement, specifically, treatment of contracts as void against public policy and force majeure and material adverse change clauses, apply to the present situation. Interpretation of particular contracts under these principles will largely depend on the actual language used.

While the courts continue to wrestle with these suits, companies should create and detail specific evidence as to how the pandemic is affecting their operations, making their performance under the contract unreasonable or impossible.

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