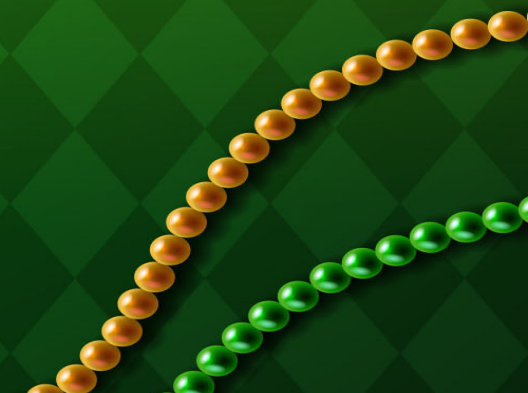




The **Carnivale** *of Risk*

**Keys to Success:
Cross-Departmental Collaboration
for COVID-19 Initiatives**

48TH CONFERENCE & EXPO






The *Carnivale* of Risk

48TH CONFERENCE & EXPO



**JEANNETTE
HERRERA**

PARTNER

 **916-233-3953**
SACRAMENTO

JHERRERA@HANNABROPHY.COM



**NATALIE
DEMPSEY**

CLAIMS MANAGER

 **XXXXXXXXXX**
SACRAMENTO

NDEMPSEY@CITYOFSACRAMENTO.ORG



**KATHARINE
H. MCCALL**

ASSOCIATE

 **(916) 321-4332**

KMCCALL@KMTG.COM



**WILLIAM
DAVIS**

TRIAL ATTORNEY

 **619-814-1704**
SAANTA ROSA

WDAVIS@HANNABROPHY.COM



The *Carnivale* of Risk

DISCLAIMER



Facts and law change frequently. Please consult your attorney for the most recent laws affecting your decisions and claims handling strategies.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

Discussion roadmap – COVID-19

- Organizational Structure
- Interdepartmental Communication and Reporting
- Workers' Compensation
- Third-Party Civil Liability?
- Isolation/Quarantine & Exclusion Pay
- Testing, Vaccination, S&W & Cal/OSHA citations
- ADA & FEHA
- Interactive Process

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk

ORGANIZATIONAL STRUCTURE COMMUNICATION & REPORTING

48TH CONFERENCE & EXPO
February 27 – March 2, 2022



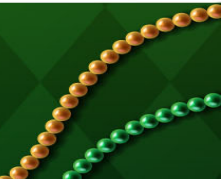


The Carnivale of Risk

“Coming together is a beginning. Keeping together is progress. Working together is success.”

– Henry Ford, Industrialist

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

“Crises like the Covid-19 pandemic highlight the importance of effective collaboration...Particularly in a crisis, organizations need to pull together experts with unique, cross-functional perspectives to solve rapidly changing, complex problems that have long-term implications.”

– Harvard Business Review

48TH CONFERENCE & EXPO
February 27 – March 2, 2022



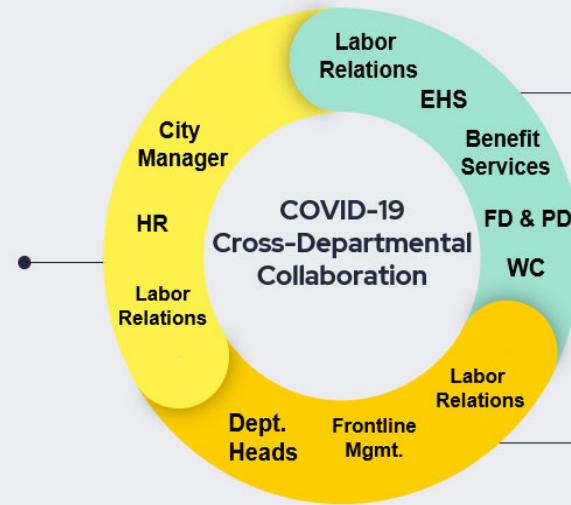


The Carnivale of Risk

Organizational Structure: Example



Communication
Establish a primary communicator who not only has the training to guide a public entity, but also the potential impacts of the decision.



Development
Create an internal group comprised of different top representatives of various departments who help to evaluate and determine how to best craft the policy changes and comply with the COVID-19 Emergency Temporary Standard.

Implementation
Once policy has been decided, it is up to the department heads and management to implement and enforce the mandate.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

INTER-DEPARTMENTAL COMMUNICATION

Reporting Structure

Internal group from various departments
Comprised of leaders from departments that are heavily impacted by the
COVID-19 Emergency Temporary Standard

Establish a Reporting Structure

Why it is important?
This chain of command is important for consistency and helps the
organization to function more efficiently.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

INTER-DEPARTMENTAL COMMUNICATION

Potential barriers and pitfalls to Inter-Departmental Communication

Separation

Physical separation can lead to a collapse in communication.

How to overcome: Through various methods of communication, such as email, video calls, chats and shared spaces can replace in-person communication.

Silos

In a time of crisis people tend to be more risk-adverse, isolate themselves and fall back on solutions that have worked in the past.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

INTER-DEPARTMENTAL COMMUNICATION

Potential barriers and pitfalls to Inter-Departmental Communication

How to overcome: Dedicated individuals to reach out to each department to reach out for various COVID-related tasks such as; conducting COVID investigations, contact tracing, guidance on quarantine or isolation times, coordinate COVID testing, disciplinary actions for non-compliant employees, etc.

Criticism

COVID-19 governmental policies have become hyper-polarized and political. Expressing your personal opinions in a negative manner can lead to confusion, distrust, and a breakdown in implementation with your workforce. How to overcome: It is important to remain neutral, focus on the health and safety of your employees and follow the established procedures.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk

WORKERS' COMPENSATION Third Party Civil Liability?

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

THE IMPACT OF SB 1159: OVERVIEW

SB 1159 Establishes 3 Distinct Presumptions

3212.86: Codification of the Executive Order (N-62-20, 5/06/20)

- Only applies to DOI 3/19/2020 – 7/05/2020

If DOI between 7/06/2020 – 12/31/22:

- 3212.87: Safety Officer and Healthcare Workers
- 3212.88: All Other Employees (Outbreak required)

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

THE IMPACT OF SB 1159: OVERVIEW

ANALYSIS:

1. Identify the date of injury
2. Identify the type of work / job duties
3. Determine which presumption might apply, then run through requirements of each.
4. Conduct thorough investigation and AOE/COE analysis to see if you can rebut the presumption
5. Consider if additional denial should issue.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk

COVID-19 and Return to work - TTD, TPD & the Corona case. Quarantine?

TTD – Why are they TTD? TPD?

Work available but position not due to shut down – nonessential?

Simply afraid to come in due to an outbreak?

What wage replacement is available?

- 4850?
- Supplemental Sick Leave
- Exclusion pay?
- Is there a Union contract or MOU at play?

Corona v. California Walls, Inc, dba Crown Industrial Operators

2020 Cal. Wrk. Comp. P.D. LEXIS 256

Is Quarantine a basis for TD?



48TH CONFERENCE & EXPO
February 27 – March 2, 2022

 **parma**
public agency risk management association



The *Carnivale* of Risk

COVID-19 and Vaccine Injuries - AOE\COE for adverse reactions

Is an adverse reaction to one of the COVID-19 vaccines an injury AOE/COE under California Workers' Compensation?

- LC §3202 and liberal construction
- LC 3208.05 and health care workers
- More likely to find workers' compensation liability for an adverse reaction if found that taking the vaccine was related to employment.
- Provide a claim form if the employee suffers an adverse reaction causing medical treatment beyond first aid.



48TH CONFERENCE & EXPO
February 27 – March 2, 2022

 **parma**
public agency risk management association



The Carnivale of Risk

COVID-19 & SB 1159 & the EO – Qualified first responder under 3212.87? Outbreak information

Is the injured worker a qualified first responder so no presumption required?

- What if they were moonlighting?

What if there is an outbreak?

- Need for Departments to have standard reporting practices & communicate if the employee traveled to multiple locations



48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

See's Candies v. Superior Court, 73 Cal. App. 5th 66– Decided 12/21/21

Allegations: Plaintiff is an employee of See's Candy Shops Inc. who sued in Superior Court alleging that poor coronavirus protocols caused her to contract the disease in 2020 and later infect her husband and one of her daughters, ultimately causing her spouse's death.

Dual approach, she simultaneously sought workers' compensation benefits related to her coronavirus illness.

Trial court found that the claimant's illness was related to workers' compensation, but her husband's illness and death were not, given that he did not work for the company.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

See's Candies v. Superior Court, 73 Cal. App. 5th 66

Derivative injury doctrine argued:

See's had argued that a claim is derivative if it would not exist absent injury to the employee. In this case, Mr. Ek would not have contracted COVID-19 "but for" his wife contracting the disease.

Derivative injury doctrine declined:

"... we reject defendants' efforts to apply the derivative injury doctrine to any injury causally linked to an employee injury."

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

Kuciemba et al v. Victory Woodworks, Inc., No. 3:20-cv-09355 (N.D. Cal.)

Dual action, employee Husband brought workers comp claims and loss of consortium claim. Non-employee Wife brought claims of Public Nuisance, Negligence, Negligence Per Se, and Negligence – Premises Liability.

Analogized COVID-19 to asbestos cases. The argument was that the courts have long recognized that employees could carry asbestos particles on their clothing and person and would shed these on coming home, causing harm to the family members with whom they lived. By analogy, employees could carry COVID-19 home on their clothing or person and shed those causing infections in family members with who they lived.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

Kuciemba et al v. Victory Woodworks, Inc., No. 3:20-cv-09355 (N.D. Cal.)

Claims were dismissed. The Judge held that workers' compensation proceedings are the exclusive remedy for these third-party claims deemed "collateral to or derivative of the employee's injury".

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

Ornelas v. Central Valley Meat Co., Inc., No. 20-1017 (E.D. Cal.)

Federal Court due to FMLA and other Federal laws.

Allegations: Class action suit filed by employees of large meat packing plant alleging that the employer's lax COVID-19 protocols lead to their infections.

At least a few employees used the dual approach and simultaneously sought workers' compensation benefits related to their coronavirus illness.

This claim was filed in July 2020 and is still ongoing. It remains to be seen if any of the causes of action in this case will also be barred by exclusive remedy.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

Zuniga v. Safeway, Inc. et al No. 20-4440 (N.D. Cal.)

Was Federal Court, remanded to Superior Court.

Allegations:

- 1) violation of the federal OSHA;
- 2) violation of the CalOSHA;
- 3) negligence;
- 4) gross negligence;
- 5) fraudulent concealment of injury in violation of California Labor Code section 3602(b)(2); and
- 6) wrongful death. And, of course, "Defendants instead prioritized their own greed over the physical health and survival of their employees".

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

Gutierrez v. Publix Supermarkets, Inc. 2020-025168-CA-01, in the Circuit Court for the Eleventh Judicial Circuit of Florida

Allegations: Deli worker claimed that the employer prohibited its workers from wearing gloves and face masks for fear it would "incite panic" among customers. Plaintiff worked next to a COVID positive employee and subsequently was diagnosed with COVID-19 and died. Suit brought by his family with their own claims and for wrongful death.

Defendant sought Motion to Dismiss arguing case should be heard in workers' compensation court.

Dismissal denied and Writ of Certiorari denied 7/14/21. Case is ongoing.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





COVID DECISION-MAKING California Workers' Compensation ~ SB 1159

DOI 3/19/20 – 7/05/20 (LC 3212.86)
Applies to employees who reported to work at employer's direction during the stay-at-home orders. Special TD rules including need for MD/DO certification within 15 days of test/diagnosis and periodically recertify.

DOI 7/06/20 – 12/31/22 (LC 3212.87 or LC 3212.88)
If an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits should be used and exhausted before any TD benefits or benefits under Section 4800, 4800.5, 4850 or some Ed. Code are due and payable. If an EE does not have those sick leave benefits, the EE shall be provided TD benefits or Section 4800, 4800.5, or 4850 benefits, if applicable, from the date of disability. There is no waiting period for TD benefits in presumptive claims. (see LC 3212.86(d); LC 3212.87(d) and LC 3212.88(d)).

Is claimant a type of employee covered by LC 3212.87?
(certain emergency responders and certain healthcare workers (H&S 1250 (a, b,c,m,n)); not all health and safety workers are covered!)

- YES** ↓
- Rebuttable AOE/COE presumption
 - 30-day decision period.
 - Good faith investigation must still take place.

NO ↓

Was there an outbreak at the EE's specific place of employment at the time of injury? (LC 3212.88)

- YES** ↓
- Rebuttable AOE/COE presumption
 - 45-day decision period.
 - Good faith investigation must still take place.

- NO** ↓
- Presumption does not apply.
 - Good faith investigation must take place before accept/denying case.
 - Even though Applicant's burden, still define any defenses & discovery.
 - Continue to assess as new cases arise.

WAS THERE AN OUTBREAK?

Outbreak for WC purposes (LC 3212.88) is defined as EITHER:

- Where less than 100 EEs physically reported to work at EE's specific jobsite w/in 45 days prior to this case: 4 positive cases (not necessarily workers' compensation claims) within rolling 14 day period of this claimant's positive case. OR
- 100+ EEs physically reported to work at EE's specific jobsite w/in 45 days prior to this case: 4% of the number that reported to the jobsite had positive cases (not necessarily workers' compensation claims) within rolling 14 day period of this claimant's positive case.
- Site shut down by Public Health Dept. due to COVID.

(d) (1) If an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits sh be used and exhausted before any temporary disability benefits or benefits under Section 4800, 4800.5, or 4850 are due and payable. If an employee does not have those sick leave benefits, the employee shall be provided temporary disability benefits or Section 4800, 4800.5, or 4850 benefits, if applicable, from the date of disability. There shall not be a waiting period for temporary disability benefits.

REBUTTING THE PRESUMPTION

- Defendant's burden to show COVID transmission to this claimant was highly unlikely to be AOE/COE.
 - Med-Legal, Factual, and Legal investigation
 - ID Employer's PPE, social distancing and other COVID prevention policies.
- EEs non-occupational risks of COVID-19..." For example:
 - Any risky activities in 14 days before positive test:
 - Interaction with public / colleagues,
 - Recreation / Faith-based activities, travel, secondary work, spouse's work, close friend/family's activities.
- Apportionment and Affirmative Defenses also apply.

IF NO PRESUMPTION

- Claimant must provide substantial medical and legal evidence that they contracted COVID and that it was more likely than not AOE/COE (higher risk at work vs public).
- Cannot deny a claim just because there is no presumption.
- Must still conduct good faith investigation re: AOE/COE as with any other claim.
- FDA has given emergency use authorization to some rapid antigen tests. Antibody tests not acceptable.

DISCLAIMER: This information was prepared on 1/13/2022 is subject to change. You should consult an attorney for current law before making any decisions.



The Carnivale of Risk

**Isolation, Quarantine,
Exclusion Pay
Testing, Vaccination
S&W and Cal/OSHA citations**

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk

ISOLATION and QUARANTINE

Isolation and Quarantine Recommendations for the General Public (not applicable to healthcare personnel)

Table 1

Persons Who Test Positive for COVID-19 (Isolation)	Recommended Action
Everyone, regardless of vaccination status, previous infection or lack of symptoms.	<ul style="list-style-type: none">• Stay home (PDF) for at least 5 days.• Isolation can end after day 5 if symptoms are not present or are resolving and a diagnostic specimen* collected on day 5 or later tests negative.• If unable to test or choosing not to test, and symptoms are not present or are resolving, isolation can end after day 10.• If fever is present, isolation should be continued until fever resolves.• If symptoms, other than fever, are not resolving continue to isolate until symptoms are resolving or until after day 10.• Wear a well-fitting mask around others for a total of 10 days, especially in indoor settings (see Section below on masking for additional information) <p>*Antigen test preferred.</p>

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Guidance-on-Isolation-and-Quarantine-for-COVID-19-Contact-Tracing.aspx>

48TH CONFERENCE & EXPO
February 27 – March 2, 2022



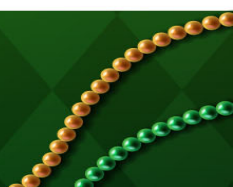


The Carnivale of Risk

Persons Who are Exposed to Someone with COVID-19 (Quarantine)	Recommended Action
<ul style="list-style-type: none"> • Unvaccinated; OR • Vaccinated and booster-eligible but have not yet received their booster dose.** <p>(Refer to CDC COVID-19 Booster Shots to determine who is booster eligible)</p>	<ul style="list-style-type: none"> • Stay home (PDF) for at least 5 days, after your last contact with a person who has COVID-19. • Test on day 5. • Quarantine can end after day 5 if symptoms are not present and a diagnostic specimen collected on day 5 or later tests negative. • If unable to test or choosing not to test, and symptoms are not present, quarantine can end after day 10. • Wear a well-fitting mask around others for a total of 10 days, especially in indoor settings (see Section below on masking for additional information). • Strongly encouraged to get vaccinated or boosted. • If testing positive, follow isolation recommendations above. • If symptoms develop, test and stay home.

Persons Who are Exposed to Someone with COVID-19 (No Quarantine)	Recommended Action
<ul style="list-style-type: none"> • Boosted; OR • Vaccinated, but not yet booster-eligible. <p>(Refer to CDC COVID-19 Booster Shots to determine who is booster-eligible)</p>	<ul style="list-style-type: none"> • Test on day 5. • Wear a well-fitting mask around others for 10 days, especially in indoor settings (see Section below on masking for additional information) • If testing positive, follow isolation recommendations above. • If symptoms develop, test and stay home.

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk

GENERAL QUARANTINE/ISOLATION POLICY

Close Contact (Quarantine)

- 5-day quarantine AND test negative after day 5; or
- 10-days quarantine

COVID-19 Case (Isolation)

- 5-day isolation AND test negative after day 5; or
- 10-day isolation

**test cannot be both self-administered and self-read*

**antigen test recommended*



48TH CONFERENCE & EXPO
February 27 – March 2, 2022

 **parma**
public agency risk management association



The *Carnivale* of Risk

EXCLUSION PAY

Mandated if Work-Related

- Cannot use employee standard paid sick leave
- No additional pay if employee receiving temporary disability
- Pay continues until employee eligible to return to work

Testing Wrinkle

- Testing unavailable after day 5 – pay continues
- Employee test refusal – no pay?

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

COVID-19 Supplemental Paid Sick Leave (Retroactive to January 1, 2022 to September 30, 2022)

- Employers (w/ 26 or more employees) will once again be required to provide 80 hours of supplemental paid sick leave for workers for COVID-19 related absences
- 24 hours available for employees receiving the vaccine or recovering from side effects
- But to get an additional 40 hours of paid leave, workers would have to show proof that they or a family member has tested positive.
 - No positive test or refusal to take test = no entitlement to supplemental leave
 - Employers must pay for the test expense

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk

TESTING

- FDA approved or FDA Emergency Use Authorized (EUA) (i.e., PCR and some antigen tests)
- Consider verifying antigen test with PRC

FDA EUA Tests

- [CareStart COVID-19 Antigen Home Test](#)
- [iHealth COVID-19 Antigen Rapid Test](#)
- [BD Veritor At-Home COVID-19 Test](#)
- [SCoV-2 Ag Detect Rapid Self-Test](#)
- [BinaxNOW COVID-19 Antigen Self Test](#)
- [InteliSwab COVID-19 Rapid Test](#)
- [Celltrion DiaTrust COVID-19 Ag Home Test](#)
- [QuickVue At-Home OTC COVID-19 Test](#)
- [Flowflex COVID-19 Antigen Home Test](#)
- [BinaxNOW COVID-19 Ag Card 2 Home Test](#)
- [Ellume COVID-19 Home Test](#)

<https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas-antigen-diagnostic-tests-sars-cov-2>

<https://www.mynews13.com/fl/orlando/news/2021/12/21/know-what-s-legit--fda-list-shows-all-approved-over-the-counter-covid-19-tests>

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





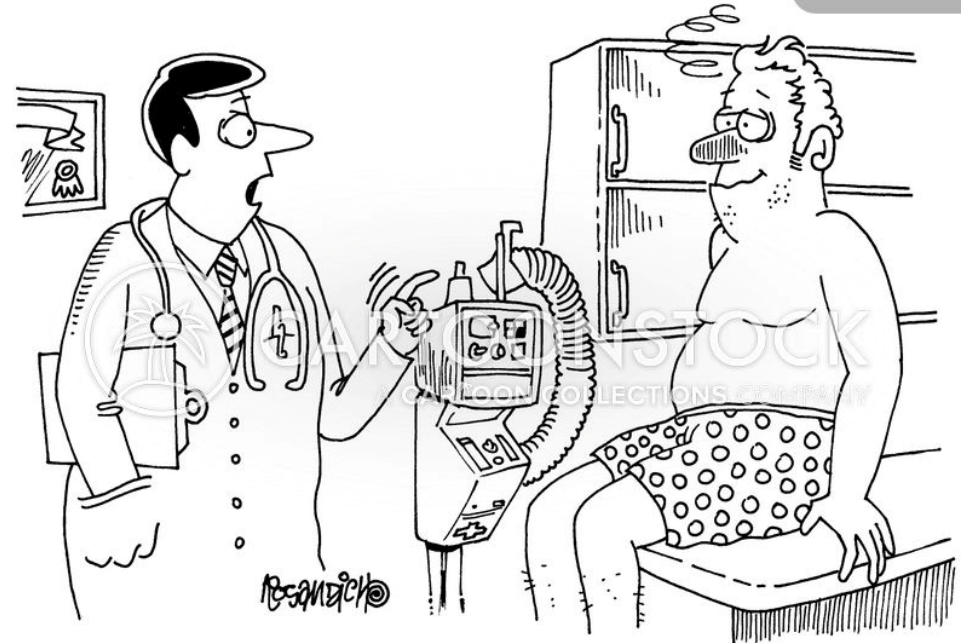
The Carnivale of Risk

CS212072

Vaccination

General Recommendation

Updated employee vaccination records
(i.e., including booster records)



"NO, MR. CARSON... A BOOSTER SHOT IS NOT A DOUBLE WHISKEY!"

48TH CONFERENCE & EXPO
February 27 – March 2, 2022

**parma**
public agency risk management association



The *Carnivale* of Risk

Serious and Willful Petitions & Cal/OSHA Citations

Serious and Willful - § 4553 & 4553.1

- 4553 - Employee contracted COVID-19 due to Employer's Serious and Willful Misconduct
- 4553.1 - Employer violated Safety Order
- 50% increased liability
- Tip - Follow the "rules"

Cal/OSHA Citations

- Employer Safety Order violation
- Settlement Considerations - safety classification, penalty reduction

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk

ADA & FEHA Interactive Process

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

- Public employers have either begun integrating employees back into office or maintained remote workforce
- Trends in COVID-19 claims against employers:
 - Labor Commissioner claims for failure to provide supplemental paid sick leave (expired September 30, 2021 but liability remains), failure to provide exclusion pay under Cal-OSHA ETS
 - Disability discrimination for failure to reasonably accommodate employee disability from COVID-19
 - Wrongful termination claims for terminating employees taking leave for COVID-19 diagnosis or exposure

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

COVID-19 May Qualify As A Disability Under ADA and FEHA

Workers with disabilities stemming from COVID-19 are protected from employment discrimination and may be eligible for reasonable accommodations

- Whether illness related to COVID-19 rises to the level of a disability (as opposed to a seasonal illness such as the flu) is a fact-based determination
- Disability is a physical or mental impairment that substantially limits a major life activity (including working)
- COVID-19 does not automatically qualify as a disability

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

COVID-19 May Qualify As A Disability Under ADA and FEHA

COVID-19 impairment that substantially limits a major life activity:

- Ongoing but intermittent multiple-day headaches, dizziness, brain fog, and difficulty remembering or concentrating, which the employee's doctor attributes to the virus
- Shortness of breath, associated fatigue, and other virus-related effects that last, or are expected to last, for several months, is substantially limited in respiratory function
- Heart palpitations, chest pain, shortness of breath, and related effects due to the virus that last, or are expected to last, for several months.
- COVID-19 related intestinal pain, vomiting, and nausea that linger for many months, even if intermittently, is substantially limited in gastrointestinal function
- "Long-COVID" aka post-COVID conditions

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

COVID-19 May Qualify As A Disability Under ADA and FEHA

COVID-19 impairment that does not substantially limit a major life activity:

- COVID-19 diagnosed individual who experiences symptoms which resolve within several weeks, but experiences no further symptoms or effects
- An individual who is infected with the virus causing COVID-19 but is asymptomatic—that is, does not experience any symptoms or effects

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

COVID-19 Disability: Employer Duty to Engage in Interactive Process

Duty to engage in meaningful interactive process (more than going through the motions)

Reasonable accommodation steps:

- Obtaining information from employee's medical provider about the need for an accommodation and its expected duration
- Understand the limitations imposed by the disability
- Assess whether employee can perform essential functions of his or her job with or without reasonable accommodation

Employee must be accommodated unless it causes undue hardship to employer - this is a fact-specific determination (undue hardship usually equals direct threat to safety of employee or others)

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

COVID-19 Disability: Employer Duty to Engage in Interactive Process

Don't rely on assumptions about COVID-19, have empathy and be flexible

- Train supervisors to refer all requests for accommodation to qualified members of management or human resources who can handle such requests appropriately
- Document process thoroughly
- Assess other accommodations made to similar employees throughout the pandemic – treat all employees equally with respect to accommodations
- Have a conversation – the interactive process works best with proper communication. Don't rely on trading emails or letters alone.
- Possible accommodations:
 - Remote work
 - Modified schedule
 - Medical leave (FMLA and/or CFRA)
 - Physical modifications to the workplace and special or modified equipment

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The *Carnivale* of Risk

COVID-19 Discrimination: *Madrigal v. Performance Transportation, LLC, (N.D. Cal. July 7, 2021)*

- Madrigal, a delivery driver with PTL, was on medical leave when the pandemic began which his doctor extended because he had diabetes
- Madrigal provided PTL a doctor's note saying he could return to work if he minimized contact with other people until the pandemic ended and requested accommodation of reassignment to accomplish this
- Instead of engaging in the interactive process, PTL denied the request and terminated Madrigal
- Madrigal filed a wrongful termination and disability discrimination lawsuit against PTL
- Court denied PTL's motion to dismiss stating Madrigal had adequately stated a claim for disability discrimination and failure to accommodate

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk



Jeannette Herrera
Law Practice Professional



**JEANNETTE
HERRERA**
PARTNER



Natalie Dempsey
Workers Compensation Claims
Manager at City of Sacramento



**NATALIE
DEMPSEY**
CLAIMS MANAGER



Katharine McCall
Associate at Kronick, Moskovitz,
Tiedemann & Girard



**KATHARINE
H. MCCALL**
ASSOCIATE



William Davis
Attorney at Hanna Brophy



**WILLIAM
DAVIS**
TRIAL ATTORNEY

48TH CONFERENCE & EXPO
February 27 – March 2, 2022





The Carnivale of Risk

Complete Session Surveys on the App

Find the App, Click on Events, Click on Browse by Day, Click on the Specific Session, Click on Rate Event. See Below for Screen Shots.

The image displays four sequential screenshots of the 2022 Parma Conf app interface, illustrating the steps to complete a session survey. Green arrows indicate the navigation path:

- Home Screen:** Shows the main menu with options like My Schedule, Exhibitors, Maps, Events, Speakers, Attendees, What's On Now, and Locate Me. The 'Events' icon is highlighted with a green arrow.
- Events Screen:** Shows the 'Events' section with options to 'Browse by Day', 'Browse by Level', and 'Browse by Track'. The 'Browse by Day' option is highlighted with a green arrow.
- Event List Screen:** Shows a list of events for the current day (Monday, Feb 28). The 'Welcome and Keynote Speaker' event is highlighted with a green arrow.
- Event Detail Screen:** Shows the details for the 'Welcome and Keynote Speaker' event, including the date, duration, and a 'Rate Event' button. The 'Rate Event' button is highlighted with a green arrow.