

## RESTAURANT PRACTICE

### OVERVIEW

At BCLP, we know the restaurant industry. Our clients cover the spectrum of restaurant companies and their owners, operators, managers, landlords, tenants, franchisors, franchisees, investors, and lenders. Our coverage includes all categories of restaurant formats, including fast food, quick service, fast casual, quick casual, family dining, and fine dining. We also represent companies in the industry that are not directly operating restaurants, such as investors and companies that service the restaurant industry.

As a result of our significant restaurant industry experience, we have a deep understanding of the challenges our restaurant clients face, including the challenges associated with keeping up with the rapid pace of technological change, addressing increasing labor and employment costs and compliance risks, preventing and responding to data security incidents, and others.

BCLP provides an expansive range of services to our restaurant clients, beginning with a solid foundation in corporate and transactional advice. We serve as outside general counsel for several regional, national, and international restaurant chains. We represent companies on the buying and selling sides of acquisitions, and we prepare and negotiate a range of other agreements, including franchise agreements and related disclosure documents, license agreements, joint ventures, management agreements, and IT and other strategic product, software and service arrangements in support of both operational functions as well as customer-facing functions like point-of-sale, tabletop media, payments integration, loyalty programs and online and on-demand ordering. We also counsel our clients with respect to leasing or acquiring the real estate and facilities necessary to support their growth.

BCLP has a world-class reputation as a firm of choice for franchisors. While primarily representing franchisors or manufacturers, we also have significant experience representing distributors and franchisees. In particular, we advise companies that use franchising as a method of distribution, including restaurant and food distribution. Our group has developed a strong, cohesive practice built on core relationships that go back nearly twenty years. We have litigated and arbitrated franchise disputes in almost every state. Our franchise lawyers are collectively responsible for more than 50 decisions reported in the field of franchising and more than 150 articles and speeches on franchise law.

This deep experience across the industry also gives us the competitive edge to advise clients in every aspect of restructurings, in-court and out-of-court. Through our multi-disciplinary approach,

we have developed extensive knowledge of our restaurant clients' businesses from the inside. By leveraging this institutional knowledge, we deliver tailored, cost-effective legal solutions to achieve our client's commercial and legal restructuring goals. Our industry teams are equipped to handle the most pressing issues in the current industry environment, whether it is right-sizing a capital structure, reducing a brick and mortar footprint, resetting financial covenants, divesting non-performing assets, or acquiring undervalued assets through 363 sales in Chapter 11 cases.

In addition, BCLP has deep experience in representing restaurant clients in litigation and counseling clients on regulatory and operational issues. This work runs the gamut of labor and employment, employee benefits, intellectual property, trademark and trade dress, and compliance with health and safety codes. A sampling of our experience is below:

- Acquisitions and divestitures of restaurants and restaurant chains.
- Private placements of debt and equity securities.
- Domestic and international franchise and licensing transactions.
- Using groundbreaking analytical and training tools, our data privacy and security attorneys have counseled a number of restaurant clients on how to avoid and prepare for data breaches, and have helped clients respond to actual breaches.
- Our employee benefits attorneys have spent a significant amount of time helping our clients and their franchisees, including major international restaurant chains, understand their obligations under the Affordable Care Act as well as prepare and implement compliance strategies.
- Our labor and employment attorneys regularly counsel clients in all aspects of employment law and regularly defend clients in both single-plaintiff and class-action matters. Our attorneys also have experience in wage and hour matters that are unique to the restaurant industry, such as tip pooling and meal/rest breaks, and have developed strategies for using timekeeping and point-of-sale systems to address wage and hour compliance issues.
- For our restaurant industry clients that are subject to collective bargaining agreements, our attorneys assist in union negotiations, grievance adjustments, and strategic planning, including providing advice with respect to their multi-employer plan obligations.
- We work with several clients to implement FDA's menu labeling rules (as well as menu labeling requirements at more local levels), including developing the data necessary to prepare menus, ensuring that all necessary information is captured on menus in an acceptable manner, and implementing programs to ensure that changes to menu offerings are incorporated into menus.

- Our environmental, health and safety attorneys frequently advise clients on environmental permitting, waste, contamination, and worker safety issues in the restaurant industry.
- We frequently advise restaurant clients on the use of and rules regarding gift card programs.
- We advise on new methods of operation and distribution, including delivery services, portable units, and pop-ups.

Although we work within a specialized area, group members have the full resources of BCLP behind them.

## MEET THE TEAM



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## RELATED INSIGHTS

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Dec 08, 2020

**Stay at Home (Again): California's Regional Stay At Home Order Goes into Effect**

Insights

Nov 17, 2020

## **California Pulls the "Emergency Brake" on Re-Opening**

In response to the 50% increase in COVID-19 cases over the prior week, Governor Gavin Newsom issued an order on November 16, 2020, that modifies California's Blueprint for a Safer Economy. As a result, the majority of California counties have reverted to the strictest "Widespread," or purple, re-opening tier effective immediately.

Insights

Nov 16, 2020

### **New St. Louis County COVID-19 Restrictions**

As with many other places across the country, St. Louis County is experiencing a surge of COVID-19 cases, and has enacted a new round of restrictions as a result. As of November 13, 2020, there were 38,620 total confirmed cases of COVID-19 in St. Louis County, with 900 new cases reported on November 12th alone. St. Louis County's positivity rate reached a staggering 15.1%, the highest since April of 2020. Hospitalizations due to COVID-19 are on the sharp rise. In response, the St. Louis County Executive, Dr. Sam Page, announced a series of new restrictions: Restaurants and bars will close indoor service but not outdoor dining, curbside, delivery, and take-out service; All businesses will be reduced to 25 percent of their occupancy limits (currently at 50 percent); Gatherings will be reduced to a maximum of ten people (currently at 49 people); Residents should only leave their homes for specified reasons articulated i...

Insights

Oct 23, 2020

### **CDC Guidance Expands "Close Contact"**

On October 21, 2020, the Centers for Disease Control and Prevention ("CDC") broadened the definition of "close contact" for purposes of COVID-19 contact tracing and quarantining requirements. Since many state and local government COVID-19 orders rely on the CDC definition of "close contact" to determine who should stay home, monitor, and be tested, the expanded definition will have repercussions across the country. Businesses may need to re-train their employees so that they follow the correct contact tracing protocols, and additionally, businesses may need to re-write COVID-19 protocols and standard operating procedures to reflect the new definition.

Insights

Sep 08, 2020

### **Back to Work: California's Blueprint for a Safer Economy**

On August 28, 2020, Governor Gavin Newsom unveiled a new plan for the reopening of California's economy following the closures ordered in response to the COVID-19 pandemic, which replaced the county watch list system that was previously in effect. The new plan provides for a four-tier system in which counties must show consistent progress in reducing the transmission of the coronavirus before allowing for greater flexibility in the reopening of businesses, schools, and resuming group activities. The stated intent of the plan is to be "statewide, stringent and slow," and to impose uniform limits on what businesses can be open depending on a county's infection rates.

Insights

Jul 15, 2020

### **Back to Work: California Re-Closes Businesses In Response to Increased Infection Rates**

Insights

Jul 02, 2020

### **States Use Re-Closures, Pause Orders, and Travel Restrictions to Combat Increased COVID-19 Case Counts**

The United States has seen an 82% increase in the number of new COVID-19 cases since two weeks ago, and has set daily new case records four times in the last week. The bulk of the increased case counts are coming from states in the South and West, including Arizona, California, Florida, Georgia, and Texas, along with others. The increased case counts come at a time when many of those states are still in the middle of their reopening plans, and have raised questions about whether industries will continue opening, or whether the increased case counts will lead to re-closures.