



AGC
THE CONSTRUCTION
ASSOCIATION

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June 4, 2020

The Honorable Lindsey Graham
Chairman
U.S. Senate Committee on the Judiciary
Washington, D.C. 20510

The Honorable Diane Feinstein
Ranking Member
U.S. Senate Committee on the Judiciary
Washington, D.C. 20510

RE: Reforms for Stemming Unreasonable Construction Employer COVID-19 Liability & Evidentiary Presumptions Operating in a Low Exposure Risk Industry

Dear Chairman Graham and Ranking Member Feinstein:

On behalf of the Associated General Contractors of America (AGC), I urge you to support sensible legal reforms for low COVID-19 exposure risk industries, like construction, to help stem the tide of job losses and protect the path to economic recovery. **Without legislative action, AGC anticipates devastating economic trends to continue, as the industry lost nearly 1 million jobs and experienced across-the-board reductions in demand for its services in April 2020.**

The overwhelming majority of construction tasks fall within the U.S. Occupational Safety and Health Administration's low exposure risk tier, as they entail minimal contact with the public and other workers. Nevertheless, the construction industry quickly recognized the potential hazards of COVID-19 and implemented public health guidelines for safe operation. Unreasonable litigation against construction firms following these guidelines and operating in a low risk industry could further accelerate job losses and jeopardize any economic recovery. To help stem this tide and allow the industry to be an engine of economic recovery, **Congress should pass legislation that:**

- **Assures low exposure risk businesses, like construction firms, that they will not face litigation if they reasonably comply with relevant guidelines during the crisis and after reopening; and**
- **Limits claims alleging COVID-19 exposure in the course of the provision of lawful business to situations of gross negligence, willful misconduct, intentional criminal misconduct, or intentional infliction of harm.**

Construction contractors are also vulnerable to states exploring an expansion of workers compensation coverage to all employees who contract COVID-19 regardless if there's evidence it was contracted in the workplace. The undifferentiating application of a workers' compensation presumption to a broad scope of workers will irrationally burden the workers' compensation system with costs it is not designed to bear, threatening the viability of the system itself. To reasonably address this:

- **Congress should bar states from enacting workers compensation claim presumptions that irrationally treat all job classifications the same – or at equal risk of exposure to COVID-19 – because higher risk jobs, like healthcare or morgue workers, are inherently different from lower risk construction jobs.**

The construction industry stands ready to rebuild our nation's infrastructure, critical health care facilities and economy. AGC urges Congress to help construction contractors acting in good faith to fulfil these goals by enacting protections from unreasonable COVID-19 related lawsuits and evidentiary presumptions.

Sincerely,

A handwritten signature in black ink, reading "James V. Christianson". The signature is written in a cursive style with a prominent initial "J" and a long, sweeping underline.

James V. Christianson
Vice President, Government Relations