

March 22, 2020

Day Pitney Prepared to Assist Clients in Requesting Designation as "Essential" Business under New York's COVID-19 "Work from Home" Executive Order

On Friday, March 20, New York's Governor Andrew Cuomo issued [Executive Order 202.8](#), effective March 22, directing that all businesses and not-for-profit entities in the State of New York, employ, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize. ***Under the Executive Order, employers in the State of New York are required to reduce their in-person workforces at any workplace locations by 100 percent no later than March 22 at 8:00 p.m.***

Previously, the State of New York's Empire State Development Corporation (ESDC) issued its "[Guidance for Determining Whether a Business Enterprise is Subject to a Workforce Reduction](#)." Businesses not designated as operating in categories initially identified as essential by the Executive Order or the ESDC guidance may be designated essential by ESDC after submitting to ESDC a [Request for Designation as an Essential Business](#). ***Day Pitney attorneys are studying precedent and preparing to promptly submit client requests to ESDC for designation as an "essential" business or seek other relief for purposes of gaining a full or partial exemption from the in-person restrictions of Executive Order 202.8, as appropriate.***

The ESDC guidance offers a *non-exclusive list* of types of business that will be deemed essential, as follows:

Essential healthcare operations including:

- research and laboratory services
- hospitals
- walk-in-care health facilities
- elder care
- medical wholesale and distribution
- emergency veterinary and livestock services
- doctor and emergency dental
- nursing homes, or residential health care facilities or congregate care facilities
- home health care workers or aides for the elderly
- medical supplies and equipment manufacturers and providers

Essential infrastructure, including:

- utilities including power generation, fuel supply and transmission
- public water and wastewater
- airports/airlines
- transportation infrastructure such as bus, rail, or for-hire vehicles, garages

- telecommunications and data centers

- hotels, and places of accommodation

Essential manufacturing, including:

- food processing, manufacturing agents, including all foods and beverages
- chemicals
- medical equipment/instruments
- pharmaceuticals

- sanitary products
- telecommunications
- microelectronics/semi-conductor
- agriculture/farms
- household paper products

Essential retail, including:

- grocery stores including all food and beverage stores
- pharmacies
- convenience stores
- farmer's markets

- gas stations
- restaurants/bars (but only for take-out/delivery)
- hardware and building material stores

Essential services, including:

- trash and recycling collection, processing and disposal
- mail and shipping services
- laundromats
- building cleaning and maintenance
- child care services

- auto repair
- warehouse/distribution and fulfillment
- funeral homes, crematoriums and cemeteries
- storage for essential businesses
- animal shelters

News Media

Financial institutions, including:

- banks
- insurance
- payroll
- accounting
- services related to financial markets

Providers of basic necessities to economically disadvantaged populations, including:

- homeless shelters and congregate care facilities
- food banks
- human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; those operating community shelters and other critical human services agencies providing direct care or support

Construction, including:

- skilled trades such as electricians, plumbers

- other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes

Defense, including:

- defense and national security-related operations supporting the U.S. Government or a contractor to the US government

Essential services necessary to maintain the safety, sanitation and essential operations of residences or other essential businesses, including:

- | | |
|-------------------------------------|---|
| ■ law enforcement | ■ building cleaners or janitors |
| ■ fire prevention and response | ■ general maintenance whether employed by the entity directly or a vendor |
| ■ building code enforcement | ■ automotive repair |
| ■ security | ■ disinfection |
| ■ emergency management and response | |

Vendors that provide essential services or products, including logistics and technology support, child care and services, including:

- logistics
- technology support for online services
- child care programs and services
- government owned or leased buildings
- essential government services

Neighboring states are implementing similar measures.

On March 20, 2020, Connecticut Governor Ned Lamont issued a similarly worded [Executive Order 7H](#), which becomes effective March 23 and is subject to further guidance to be issued by the Commissioner of Department of Economic and Community Development (DECD). More information on the Connecticut Executive Order can be found here: [Day Pitney Prepares to Assist Clients in Requesting Designation as "Essential" Business under Connecticut's COVID-19 "Work from Home" Executive Order](#).

On March 21, 2020, New Jersey Governor Phil Murphy issued [Executive Orders 107](#), and [108](#), which became effective at 9 p.m. on March 21, ordering businesses in New Jersey to [make "best efforts" to reduce on-site staff and close to the public "non-essential" retail establishments due to COVID-19](#).

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our [COVID-19 Resource Center](#).

Authors



Daniel L. Schwartz

Partner

Stamford, CT | (203) 977-7536

New York, NY | (212) 297-5800

dlschwartz@daypitney.com



Glenn W. Dowd

Partner

Hartford, CT | (860) 275-0570

gwdowd@daypitney.com



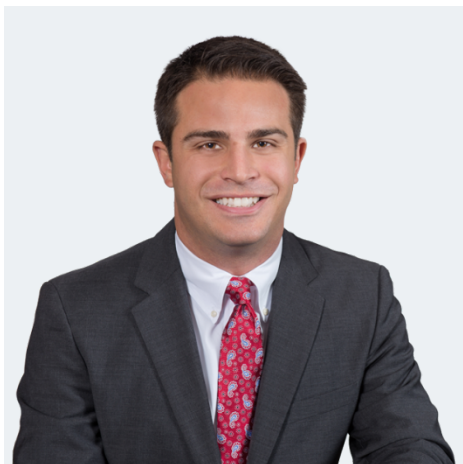
Heather Weine Brochin

Partner

Parsippany, NJ | (973) 966-8199

New York, NY | (212)-297-5800

hbrochin@daypitney.com



James M. Leva

Partner

Parsippany, NJ | (973) 966-8416

Stamford, CT | (973) 966-8416

jleva@daypitney.com



Jeffrey P. Mueller

Partner

New Haven, CT | (860) 275-0164

New York, NY | (212) 297-5800

jmueller@daypitney.com



R. Scott Beach

Partner

Greenwich, CT | (203) 862-7824

Stamford, CT | (203) 977-7336

rsbeach@daypitney.com



Rachel A. Gonzalez

Partner

Parsippany, NJ | (973) 966-8201

New York, NY | (212) 297-5800

rgonzalez@daypitney.com



Richard P. Colbert

Partner

New Haven, CT | (203) 977-7375

Stamford, CT | (203) 977-7300

rpolbert@daypitney.com



Richard D. Harris

Partner

Hartford, CT | (860) 275-0294

New Haven, CT | (203) 752-5094

rdharris@daypitney.com



Stanley A. Twardy, Jr.

Of Counsel

Stamford, CT | (203) 977-7368

satwardy@daypitney.com



Susan R. Huntington

Partner

Hartford, CT | (860) 275-0168

Washington, D.C. | (202) 218-3909

shuntington@daypitney.com