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EMPLOYERS SUED OVER COVID-19 DEATHS ALLEGEDLY AS AN OUTCOME OF WORK

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Lawsuits have already begun alleging that the manner in which employers handled COVID exposure resulted in serious injury or death to employees. For example, in the case of *Iniguez v. Aurora Packing Company*, the estate of the wife of a butcher filed a lawsuit against her husband's employer, a meat packing company. The suit claims that the husband contracted COVID-19 while at work and transmitted the disease to his wife, who died. The lawsuit claims that the employer knew COVID-19 was spreading at its facility but did nothing to mitigate the risk. The lawsuit alleges the employer was negligent in failing to notify employees of the spread of the virus, negligent in failing to implement an infectious disease control program that followed CDC and other healthcare guidelines, and failed to monitor employee exposure to COVID-19.

In the case of *Montgomery v. Peruvian Senior Living, LP*, the plaintiffs were the family members of a deceased employee who worked at the residential care facility. The plaintiffs allege that the employer was grossly negligent in not communicating to its employees which residents had COVID-19 and requiring employees to sit with COVID-19 positive residents for extended periods of time without protection. The suit alleges that the employer breached its duty to warn, did not provide adequate personal

protective equipment, failed to implement safety protocols and failed to take other steps to remove the harm of COVID.

In many situations where COVID was transmitted at the workplace, the employer's argument in defense of litigation is that it is covered exclusively by the remedies under workers' compensation. In several states, workers' compensation does not apply if the employer's actions were willful or grossly negligent. This is particularly true in circumstances where employees work at locations such that social distancing is not possible, or where employers in general did not implement the three basics to protect from the spread of COVID: face coverings, frequent hand washing, and social distancing.

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