CRISIS MANAGEMENT FOR COVID-19
Phase 27: COVID Employer Survey Results, DEI and Racial Justice Efforts, & Updated Guidance, Legal Changes, and Legislation

Presented by:
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INTRODUCTIONS

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WHAT WE'LL COVER

1

DEI and Racial Justice Efforts

2

Insights from Employers & Employees About the Future of the Workplace

3

Updated Guidance, Legal Changes, and Legislation

1

DEI & Racial Justice Efforts -

LEXMARK

Sheri Evans Depp

Human Resources Director

Global Talent Management, Corporate Business Partners, Diversity & Inclusion

Lexmark Diversity Council Structure

Diversity Advisory Council
Global Diversity Chair, Corporate D&I Director, Diversity Network Group Executive Sponsors + DNG Chairs

Diversity Network Groups
Foster a more inclusive environment acting as business resources, as well as employee and community engagement, recruiting efforts, and diversity/inclusion awareness with global participation

Lexmark sites in France, Germany, Hungary and Spain have signed the **European Diversity Charter**

aNda
N-ABLE network alliance of black lexmark employees
GALE Gay-Straight Alliance of Lexmark Employees
VALORR
iHOLA! Hispanic Organization for Leadership and Achievement
Christian Business Persons
LEXMARK women@work
Abilities in Motion
Valuing all abilities in the workplace
LinkedIN LEXMARK YOUNG PROFESSIONALS

Following the deaths of George Floyd, Ahmaud Arbery, Breonna Taylor…

- Our CEO, Allen Waugerman, communicated to global employees through blog and video, speaking out on racial injustice:

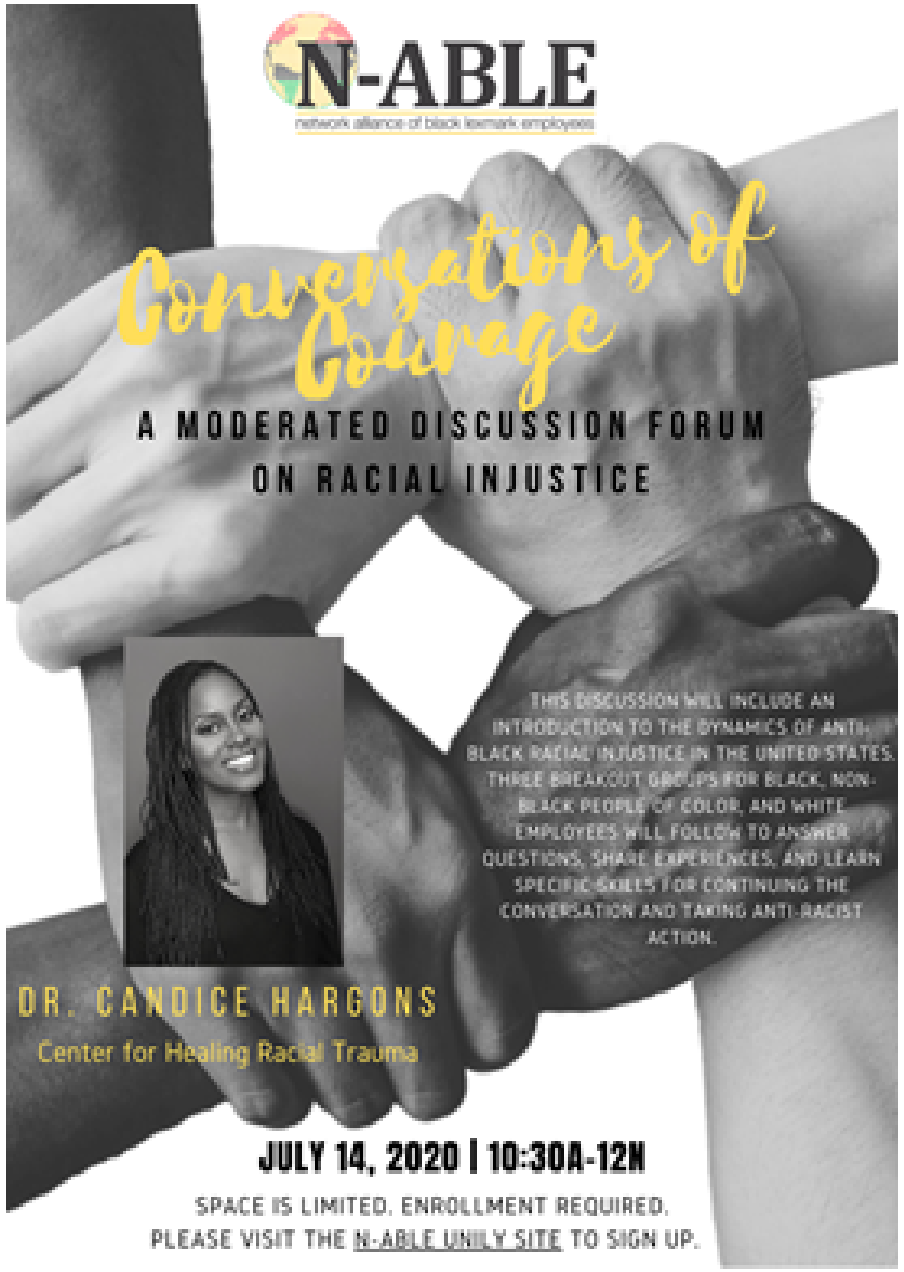
  "I understand that many of our colleagues are hurting in ways that I can never truly understand. I don't have answers, but I feel a personal responsibility to acknowledge the institutional racism that continues to plague the U.S. and other countries around the world. That responsibility is amplified with my leadership position as the CEO of this company. This is a particularly painful time for our African-American employees, but it affects all of us…It starts with open dialogue."

  - Utilized N-ABLE DNG to guide us, act as consultants, and to be sure we were listening and hearing.

- We've continued at least monthly communications on racial justice and continuous learning, conversations, and actions.
  - Leadership blogs, videos, live global events
  - Created circle groups to encourage peer to peer discussions on racial and social injustice in a safe environment
  - Global learning: Leading Inclusively (managers) and Unconscious Bias (all employees with manager-led discussions)
  - Reviewed and strengthened succession and leadership representation metrics
  - Increased focus on DEI community support

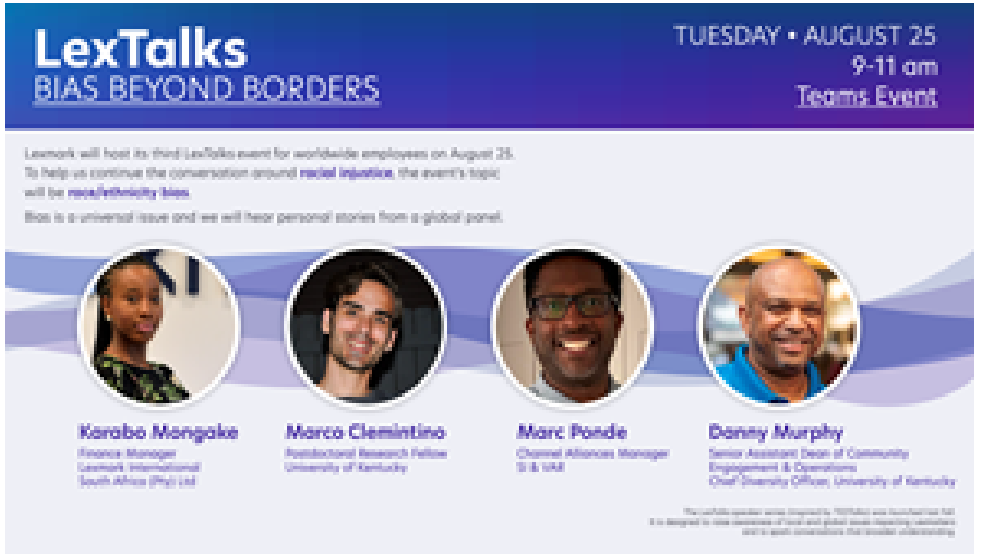
DEI Live Event

- N-ABLE sponsored Conversations of Courage with the Center for Healing Racial Trauma
  - Needed a forum for awareness and framework for conversations – Partnered with Dr. Candice Hargons, an external expert, rather than just dealing internally
  - Needed to encourage questions without having the full burden fall on our Black employees to answer or explain
  - People had questions but didn't want to offend or be judged
  - Content on racial injustice dynamics then breakout groups: White, Black, Non-Black People of Color, facilitated based on needs
  - Posted the non-attributed transcripts with the recording and received tremendous outpouring of shock and support



DEI Live Event

- LexTalks
  - LexTalks speaker series (inspired by TED Talks) is designed to raise awareness of local and global issues impacting Lexmarkers and to spark conversations that broaden understanding.
  - Inaugural session a year ago with Transcending Borders: Community members who shared their personal journeys of barriers they faced in their lives.
  - 2nd LexTalks in May: Breaking the Stigma focused on mental health – Stress and uncertainty as reality of COVID-19 impacts spread. Big bump in participation numbers.
  - LexTalks in August: Bias Across Borders focused on racial and ethnic injustice with a worldwide view.
    - Had over 500 live participants and 3x views of recording
    - Many more employees outside the US
    - The stories told by individuals were highly impactful – many requests to continue with this LexTalks topic
    - Generated receptiveness to Unconscious Bias learning



COVID-19 Crisis Management Team

- Team was launched beginning of March – we trained every year but missed this scenario!
- Led by Global Security director, plus geo HR directors, EH&S director, one rep from each business function. Weekly CMT meetings and global updates to employees through intranet stories and videos.
- Responsible for everything from PPE, global policies on travel, company events, and tools and processes for virtual workplace to steps for preventing illness and self-quarantine guidance. Stick with CDC and WHO guidance plus government mandates by location, erring on the side of caution.
- Conducted COVID-19 employee survey in partnership with Willis Towers Watson.
  - Global norms based on global WTW COVID-19 surveys March – Sept.
  - Indexes on Well-being, Business Focus, Support, Trust, Speed & Agility, Adaptability & Resilience, Work & Resources, DEI, Sustainable Engagement. We added a section on Work Arrangements – while COVID is still a threat and post-COVID.
  - Received 10,000+ comments – very positive on workplace flexibility and communications, looking for clarity on our strategy given COVID-19 and trends in our industry.
- Support team as escalations hit. x. Juarez/El Paso situation in past two weeks has generated "all hands on deck" response.

Lexmark™

Questions & Answers

2

Insights from Employers & Employees About the Future of the Workplace

Peter Burke
President & Co-Founder
Best Companies Group

Best Companies Group

BACK TO THE OFFICE
OR
STAY AT HOME?

Insights from both Employers and Employees about the Future of the Workplace

Peter Burke
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November 2, 2020

BACK TO THE OFFICE OR STAY AT HOME?

Today's 25 Minute Agenda

1) Who is Best Companies Group
2) Our COVID-19 research initiatives
3) What we learned from our Work@Home employee survey
4) What employers told us about returning to the workplace
5) 6 Tips on how to keep your remote workforce engaged
6) Questions?

All attendees will receive copy of this presentation in the coming days

Best Companies Group

Founded in 2004, BCG is one of the leading providers of **employee engagement** *research* and *rankings*, currently managing the survey process for 60+ "Best" programs across the U.S., Canada and the U.K.

BCG surveys over 6,000 organizations annually, including over 1,000,000 employees across city regions, states, and major industries.

BCG also has a **growing custom research** effort working with organizations, large and small to measure engagement.

WHAT WE DID WHEN COVID-19 HIT TOOK HOLD

March, 2020 – Went home…for good

March, 2020 – Learned how to Zoom, sort of

April, 2020 – Launched Work@Home Pulse Survey

June, 2020 – Added Work@Home Survey questions to all employee surveys

August, 2020 – Conducted "Return to Work" employer survey

Work@Home Responses - 180,459 employees

Return to Work - 1,184 Employers

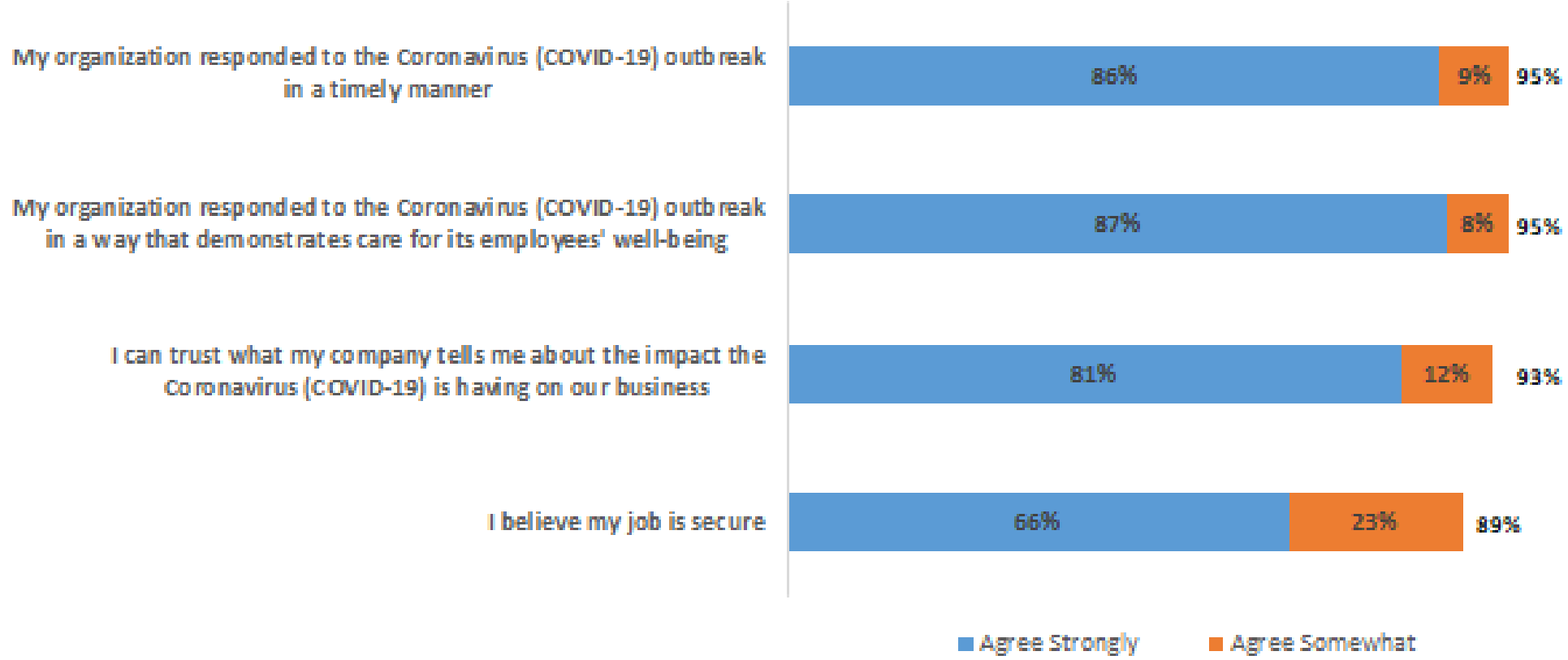
WHAT WE ASKED EMPLOYEES

- How well their employers responded to COVID-19
- Trust in leadership
- Work environment and arrangements
- Technology
- Job Security
- Productivity/Distractions
- Communication
- Flexibility
- Desires going forward about working from home

TODAY - 5 KEY FINDINGS

Key Finding Number 1

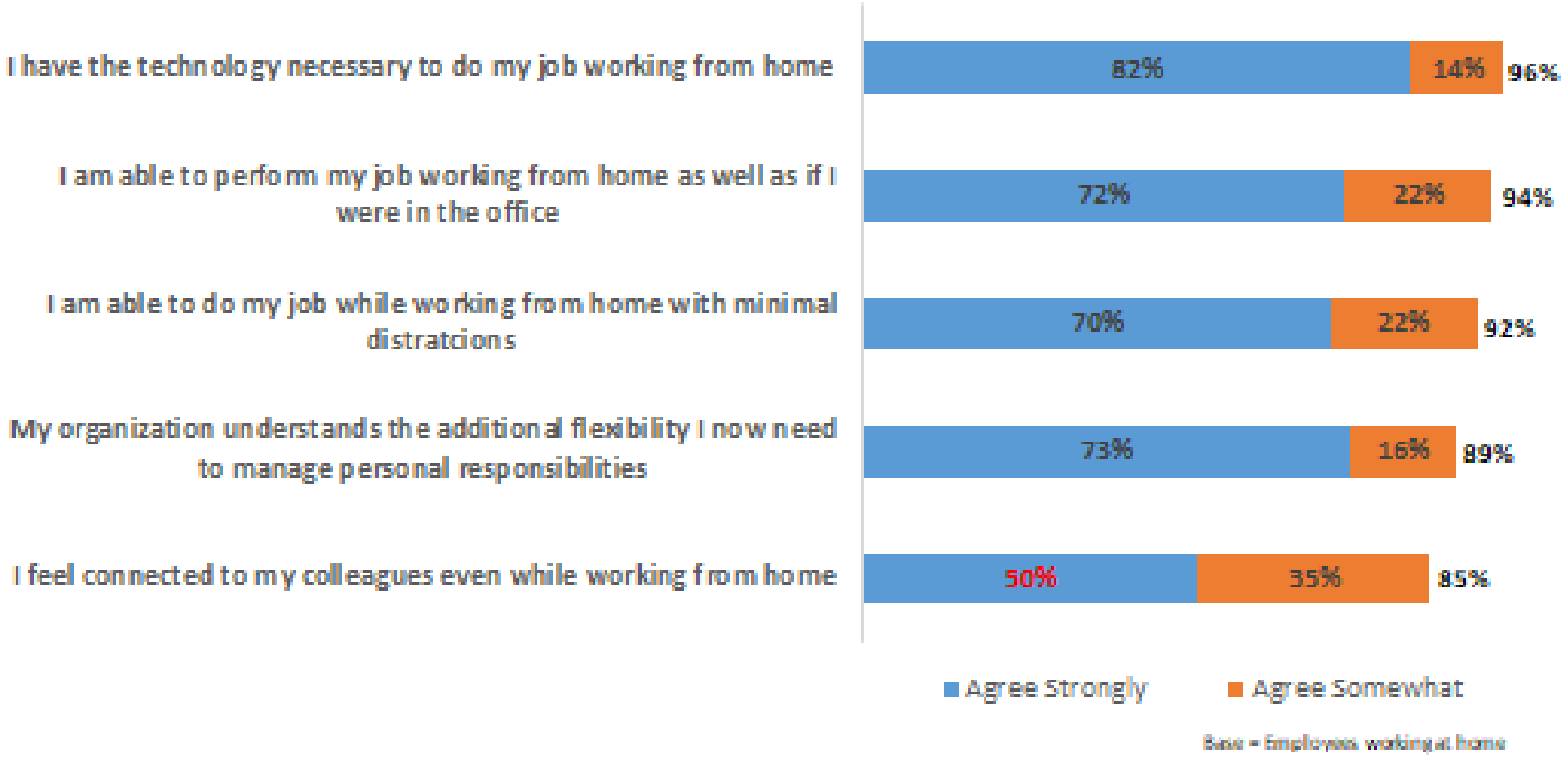
Employees overwhelmingly support their company's COVID-19 response



Key Finding Number 2

Employees say they are well equipped & well-supported

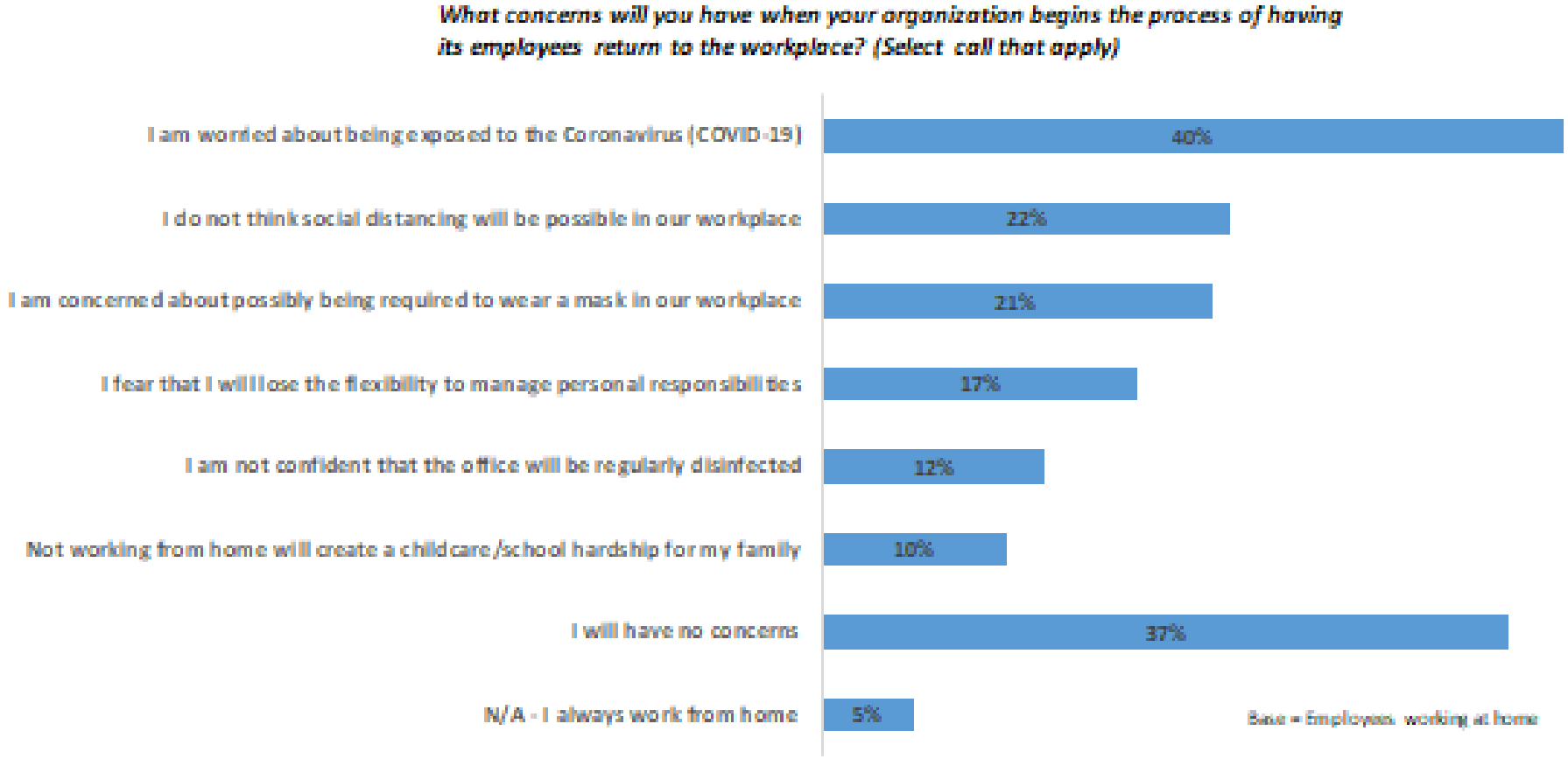
- But, employees don't feel as connected to their colleagues.



Key Finding Number 3

37% of employees will have no concerns about returning to the workplace. Those who do have concerns, told us why:

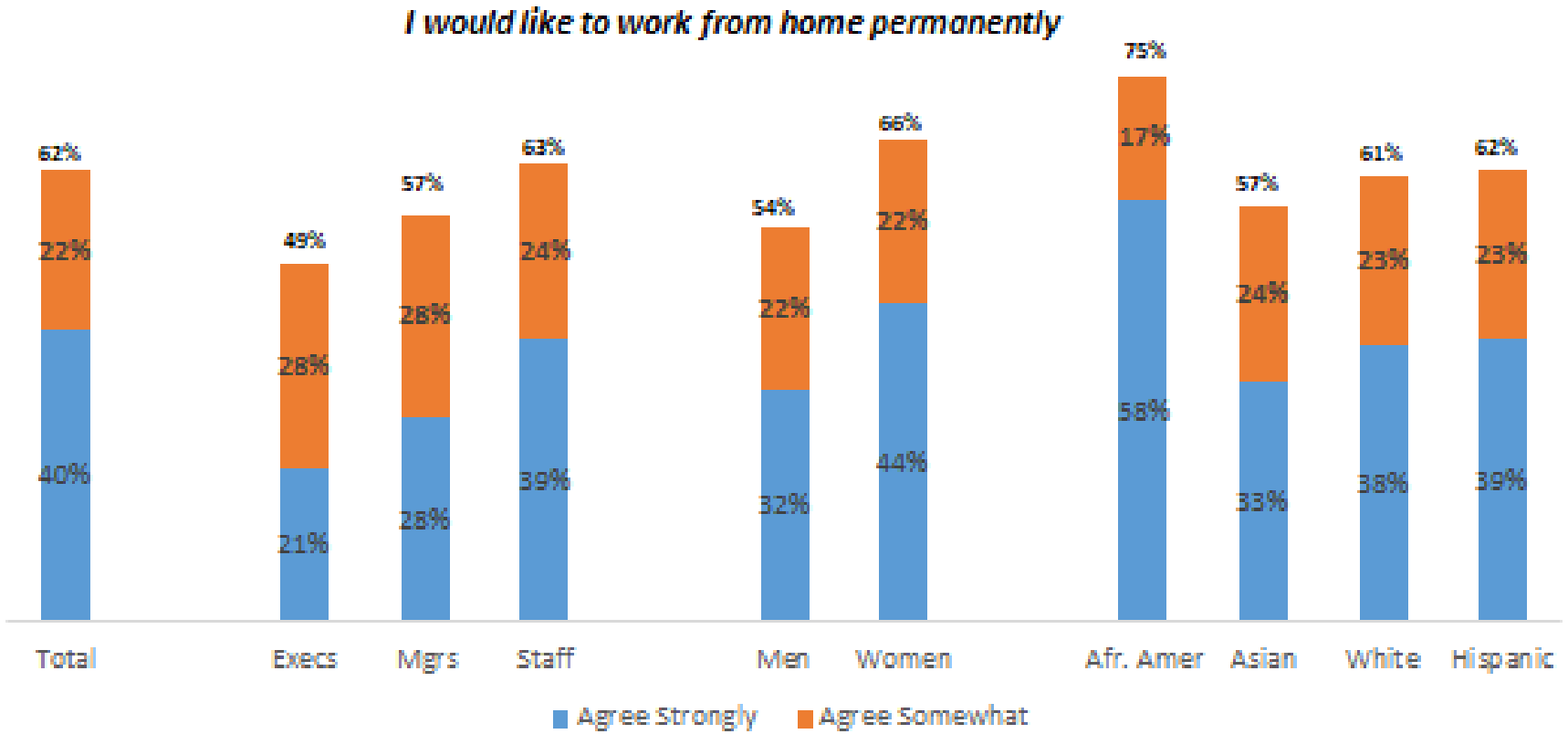
- 40% are concerned about exposure to COVID-19
- 22% of employees expressed concern about maintaining social distancing
- 21% were concerned about wearing mask in the workplace



Key Finding Number 4

62% of employees currently working from home would like to work from home permanently (permanently means based in a home office)

- Significantly more African Americans (75%) want to continue to work at home permanently compared to the other ethnicities.
- Women (66%) want to continue to work at home permanently, 12% points higher than men.
- 49% of Executives want to be based out of their home on a permanent basis

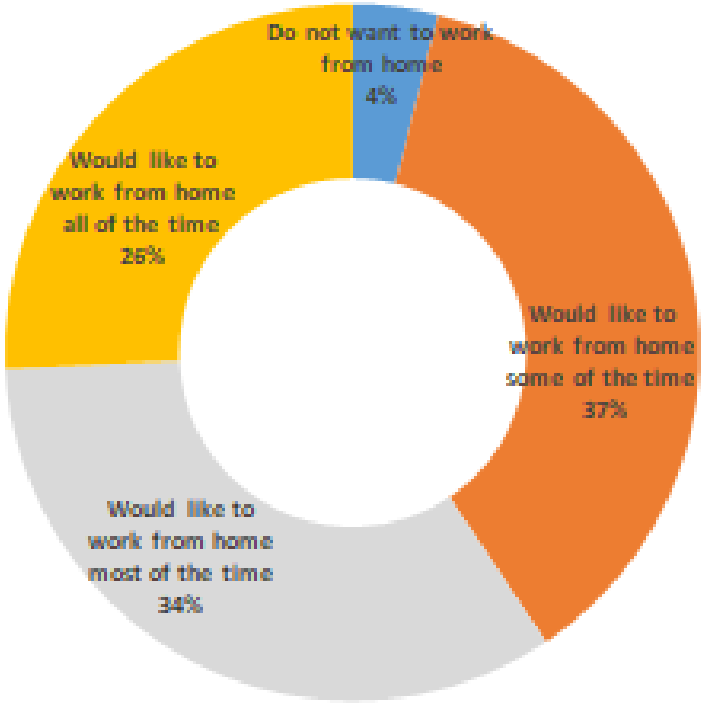


Base = Employees working from home

Key Finding Number 5

But, while sentiment for working at home is strong, employees don't want to lose the connection to the office -- only 26% want to work at home all of the time

- 96% of employees said they'd like to work from home some, most, or all of the time.
- 60% said they wanted to work from home most or all of the time
- So, going forward employees working at home, at least part of the time, is an important consideration for employers



Base = Employees working at home

NOT THAT LONG AGO

NOW

HOW READY ARE EMPLOYERS FOR THEIR EMPLOYEES TO RETURN TO WORKPLACE?

BCG'S "RETURN TO WORK" SURVEY:

What we asked and who responded

- Payroll/staff actions in response to COVID-19
- Financial impacts as a result of COVID-19
- % of employees working at home pre and post COVID-19
- Likelihood of COVID-19 changes being permanent
- Measures being taken as part of the return-to-work plans
- Liklihood of less commercial real estate being used post COVID-19
- Estimates on when employers will return to the workplaces
- Primary Sources of COVID-19 information

- We received responses from a wide variety of employers (1,184)
  - 20 plus industries, equally spread around the US, all sizes of organizations

5 KEY FINDINGS

Key Finding Number 1

Working from home: How COVID-19 has changed the workplace

- Prior to the COVID-19 outbreak, companies reported that an average of 14% of their employees worked remotely.
- Currently, companies report an average of 57% of their employees are working from home.
- Smaller companies are significantly more likely to have a larger percentage of their employees working from home.

Number of Employees	Percentage of Employees Working From Home (Avg.) Prior To Outbreak %	During Outbreak %
0-49	14.9	62.3
50-99	15.8	57.3
100-249	12.6	53.8
250 Or More	12.8	54.4
Total Companies	14.1	57.2

Key Finding Number 2

Larger companies are significantly more likely to implement safety measures than smaller firms

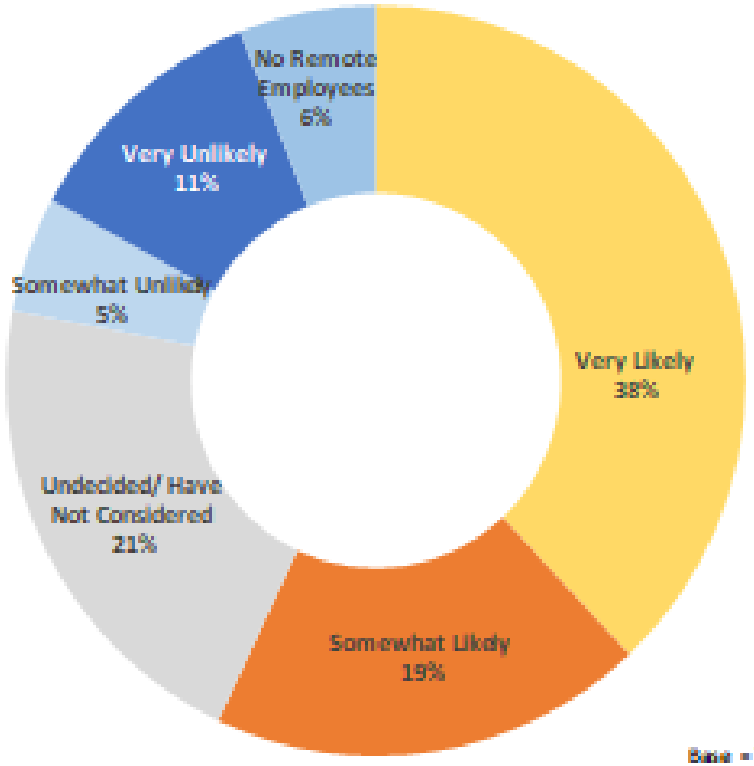
		Number of Employees	
	Total	0-99	100 or More
Total Answering	1184	637	547
Require social distancing at all times	79%	74%	85%
Sanitize/disinfect all offices/locations on a daily basis	77%	73%	81%
Permit employees to work from home when ill or symptomatic	77%	75%	79%
Limit the number of people allowed in any enclosed area	69%	66%	72%
Mandate that masks be worn at all times (excluding time at desk)	63%	55%	73%
Limit the number of employees allowed at the workplace at one time	58%	55%	62%
Require physical distancing - desks and workspaces placed further apart	56%	52%	61%
Reduced Business Travel (Quarantining upon return)	51%	44%	58%
Return employees to work in phases	46%	41%	53%
Prohibit employees from sharing food	46%	44%	48%
Temperature screening for all who enter the workplace	43%	38%	49%
Require employees to wash their hands before starting work	32%	33%	30%
Erect plastic shields around workspaces/desks	32%	26%	39%
Personal Travel	24%	22%	28%
Eliminate conference rooms	23%	22%	26%
Request masks be worn at all times (excluding time at desk)	21%	24%	17%
Increase sick time allotment to ensure employees stay at home when sick	19%	17%	21%

Key Finding Number 3

57% of Employers say they are likely to permit/require at least some of their newly remote employees to work remotely on a permanent basis

- 38% are very likely to permit/require permanent remote employment
- Only 16% say they are not likely to permit/require their employees to continue to work remotely
- Employers expect that an average of one-third (33%) of the newly remote employees will continue to be remote

What is the likelihood that your organization will continue to permit/require at least some of the newly remote employees to work remotely on a permanent basis?



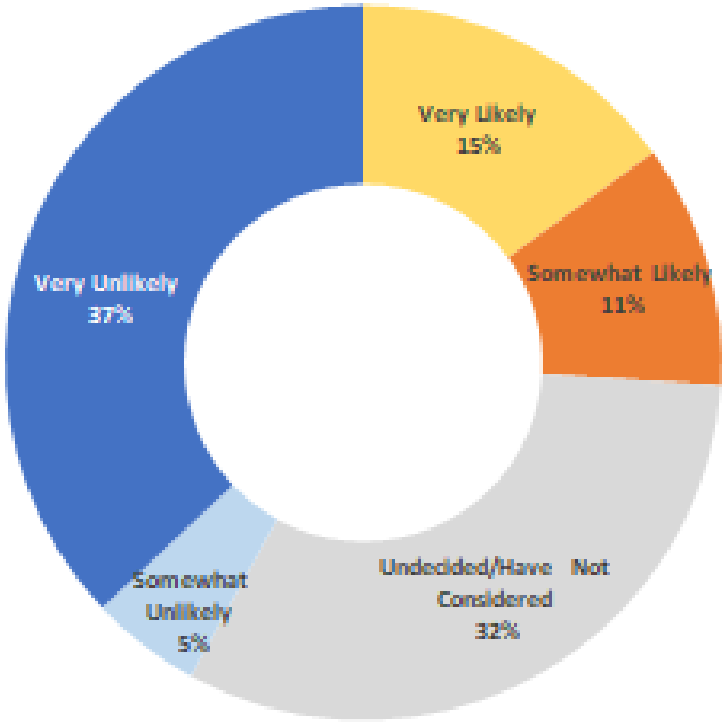
Base = Total Answering

Key Finding Number 4

26% expect to utilize less commercial workspace after the Covid-19 pandemic has ended, and another 32% are undecided

What is the likelihood that your organization will permanently utilize less commercial workspace after the COVID-19 pandemic has ended?

- Only 37% said they do not expect to use less commercial workspace. So, status quo.
- Among those companies that expect to downsize their commercial workspace, the average decline in space executives expect is 23%
- The number one reason employers expect to use less commercial workspace? – 83% say it's because they anticipate that they will have fewer employees working in an office or a physical location



Base = Total Answering

Key Finding Number 5 (AND 5.1)

- **49% of the companies say they've already begun their Return-to-Work process.**
  - Companies located in the west are significantly less likely to have begun the process.
  - Among those that had not begun the Return-to-Work process, most expect to start by January of 2021.
  - 20% of all companies do not know when they expect to begin this process

- **Companies' top-two sources of information regarding COVID-19 are the CDC (93%) and their state's Governor (73%)*.**
  - 39% say they rely on local government
  - 32% rely on the Department of Heath and Human Services
  - 31% also listen to the World Health Organization
  - Only 10% rely on the Office of the President of the United States
  - Surprisingly, only 9% depend on National TV News

** Which do you consider to be the primary sources of information that have influenced your organization's Return-to-Work plans? Select all That Apply*

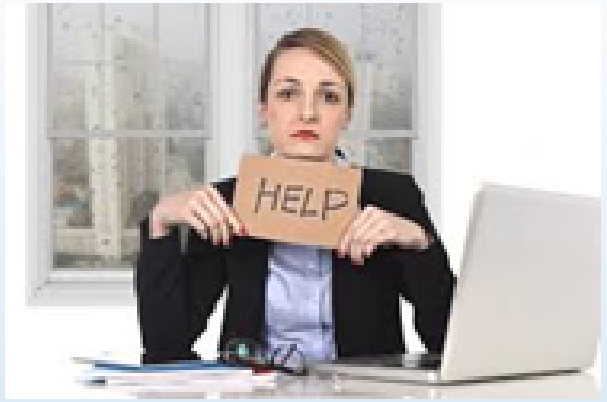
WE HAVE ALL BEEN THERE!

SO, HOW DO YOU KEEP YOUR REMOTE WORKFORCE ENGAGED DURING THE PANDEMIC?

START BY REMEMBERING THREE THINGS

1) **Most people hate change, so this is already a challenge**

2) **We are all social beings. Isolation can have significant negative effects that can reduce engagement:**
   - Lack of focus and productivity
   - Depression
   - Diminished motivation
   - Reduced accountability (out of sight, out of mind)



3) **New distractions and stressors are real:**
   - The original big three : Bed, TV, Kitchen
   - Kids at home (virtual learning)
   - Health of the family
   - Financial issues (un-employed partner/spouse, wage reductions, furloughs)
   - No dedicated quiet space

6 Tips To Help Our Remote Teammates

1) Make sure employees have the appropriate technology and equipment

- Computer, Printers, Phones
- Software, Server Access
- All other things are almost secondary to having what you need to be productive
- Check in on this often

2) Increase the quality and frequency of communication

- Keep the information flow going. Especially about company performance and the future of the workplace status
- Encourage phone conversations vs. email
- Add a team chat channel for team connections
  - Slack, MS Teams, Chanty, Twist, Google Chats

slack

twist

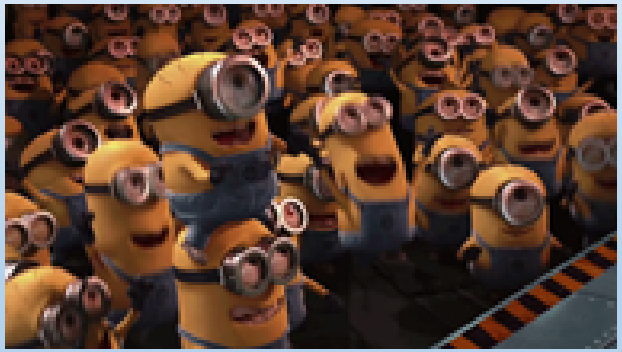
6 Tips To Help Our Remote Teammates

3) Focus on building trust

- Trust that your employees will get their jobs done in this new environment
- Ask for feedback on a more regular basis
- Trust your managers to get creative with their teams
- Don't fall into the "out of sight, out of mind" mentality
- Increase the frequency of the "Why" message
- Don't make promises you can't keep

4) Recognition. Now is the time for appreciation.

- Shout-outs from the boss never grow old. Ramp it up!
- Start a peer voting recognition program, like an "Above and Beyond" award.
- Once a month or so bring the whole group together to do shout-outs and to announce the winner of the "above and beyond" award. Read the reasons why and give that person an extra day off.



6 Tips To Help Our Remote Teammates

5) Virtual Team Building and Fun.

- Battle of the backgrounds
- House tours, "show us your space!"
- 2 truths and a Lie
- Build a story
- "Would you rather" poll questions
- Photo of the week

6) Try to communicate "Perspective"

- The only thing we know for sure is that things will change (one way or another)
- Some things will remain, some things will go back to the way they were, and new things are coming down the pike.
- We have to encourage all to be ready!
- The successful companies will pivot, adjust, and plow ahead.
- Curling up and waiting for the storm to end will equal long term trouble

Best Companies Group

THANK YOU!

Questions?

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November 2, 2020

3

Updated Guidance, Legal Changes, and Legislation

James M. Morris, Esq.
Juris Doctor, MPA
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3 COVID-19 FAQ from Employers

Employer FAQ you never thought you would need

For the last several months, employers have been required to learn how COVID-19 spreads, how to maintain or resume safe work environments, and how to navigate a complex web of new and existing laws and regulations implicated by the pandemic. Some FAQ related to Employer COVID-19

Analysis of COVID-19–Related Employment Litigation

Q1. What are the types of claims employers may face related to COVID-19?

A1. Based on the latest court filings, employers can expect these types of COVID-19–related claims:

- *Whistleblower/Retaliation/Wrongful Discharge*
  - **Unsafe working conditions; Reporting misappropriation/misuse of PPP, CARES Act funds; Other protected activity; COVID-19 leave; Workers' compensation retaliation claims**
- *Unsafe Working Conditions due to COVID-19 exposure --* **Failures to adequately clean and sanitize**
- *"Public nuisance"-type claims against facilities with outbreaks*
  - **Failure to provide PPE; Inadequate handwashing areas; failure to enforce social distance; failure to follow CDC/OSHA Guidelines for re-opening/essential work locations**
  - **Failure to comply with orders re: safe operation of "essential" businesses/reopening non-essential**

3 COVID-19 FAQ from Employers

Employer FAQ you never thought you would need

Disability Discrimination

- **Forced leaves of absence; failures to accommodate, including denials of requests to work from home; Perceived disability discrimination by screening out older employees**

Title VII – Discrimination

- **Claims related to age, pregnancy, childcare, national origin, or other protected categories**

Title III – Disability Access

- **COVID-19–related access requirements for places of public accommodation**

Family and Medical Leave Act (FMLA) / Families First Coronavirus Response Act (FFCRA)

- **Failure to provide COVID-19-related leave, failing to provide paid leave, and retaliation for use**

Wage and Hour

- **Failure to pay for hours worked prior to closures; unpaid hazard pay, overtime, and sick pay; Unpaid compensation claims from remote work by nonexempt employees; vacation, PTO, Paid Sick Leave**
- **“Donning/doffing” time spent on health screenings, temperature checks, and/or other mandated tests**

3 COVID-19 FAQ from Employers

Employer FAQ you never thought you would need

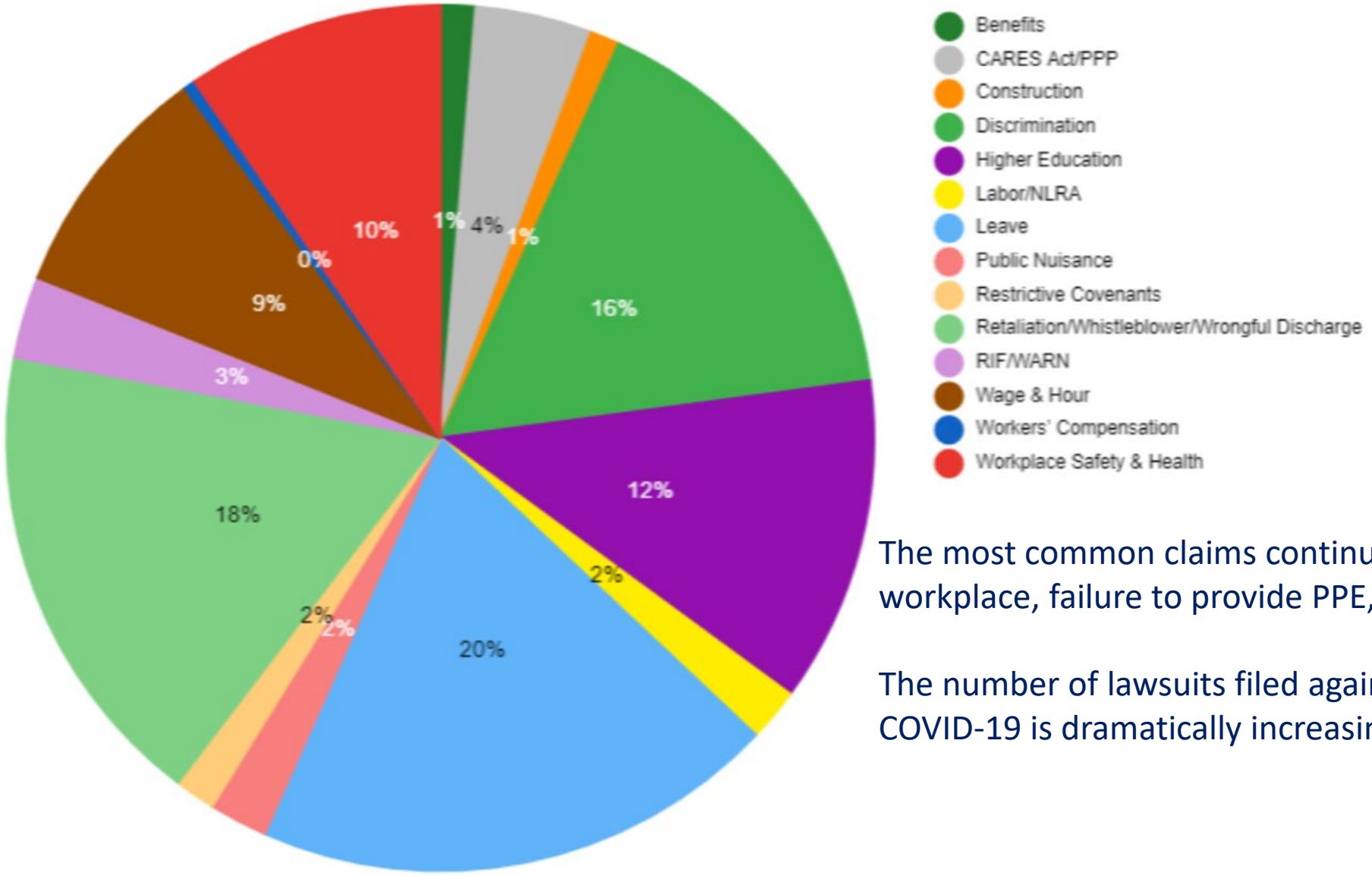
- *WARN/RIF --* **Failure to provide required notifications; Disparate impact claims; "Right to recall"**
- *Workplace Safety and Health / OSHA*
  - **Citations for Violations of health and safety regulations; OSHA retaliation claims**
- *Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)---* **Notice issues**
- *ERISA*-- **failure to properly administer ERISA benefit related claims or provide STD/LTD benefits**
- *NLRA* -- **Working conditions, RIF, Reassignments, CBA, refusals to work and strikes**
- *Data Privacy* – **Work at home data breaches; fraudulent unemployment claims due to breaches**
  - **Claims related to symptom tracking, contact tracing, proximity, thermal imaging, etc.**
  - **Biometric privacy concerns relating to increased employer use of technology**
- *Other Claims*
  - **Premises liability; College tuition; construction related (delays, cost increases, material, etc.)**

Q2. Are certain industries receiving more lawsuits than others?

A2. Everywhere. But highest % in healthcare, hospitality, professional, retail, and manufacturing industries.

3 COVID-19 FAQ from Employers

Current litigation trends arising from COVID-19



The most common claims continue to relate to safety in the workplace, failure to provide PPE, and retaliation.

The number of lawsuits filed against companies related to COVID-19 is dramatically increasing weekly.

3 COVID-19 FAQ from Employers

Employer FAQ you never thought you would need

Equal Employment Opportunity Commission (EEOC)

Q1. Have any timelines changed in relation to agency charges as a result of COVID-19?

A1. Filing deadlines with the EEOC have not been affected by COVID-19. Still 180 days/300 days.

Q2. Has there been a delay in issuance of right-to-sue letters from the EEOC as a result of COVID-19?

A2. Right to Sue notifications were delayed until August 3, 2020.

Occupational Safety and Health Administration (OSHA)

Q1. How significant is the uptick in complaints received by OSHA due to COVID-19?

A1. Between February 1, 2020 and August 25, 2020, OSHA received 9,526 COVID-19–related complaints.

Q2. Are there any industry or timing trends in the OSHA complaints?

A2. Largest area are hospitals, nursing homes, and post offices. Retailers, grocers, restaurants, and other public-facing businesses are 2nd, with construction and warehouse facilities following closely behind.

Q3. Has there been a spike in any types of inspections?

A3. Yes. The overwhelming majority have occurred in the "fatality/catastrophe" category.

3 COVID-19 FAQ from Employers

Employer FAQ you never thought you would need

Q4. Can an employee sue his or her employer for violating OSHA standards?

A4. OSHA does not create a private right of action for injuries or illness (COVID-19) caused by a violation of OSHA standards. However, OSHA regulations do not affect employee rights under state workers' compensation laws to pursue lawsuits based on alleged violations of state statutes.

Q5. Can an employee bring a complaint related to safety issues at his or her workplace?

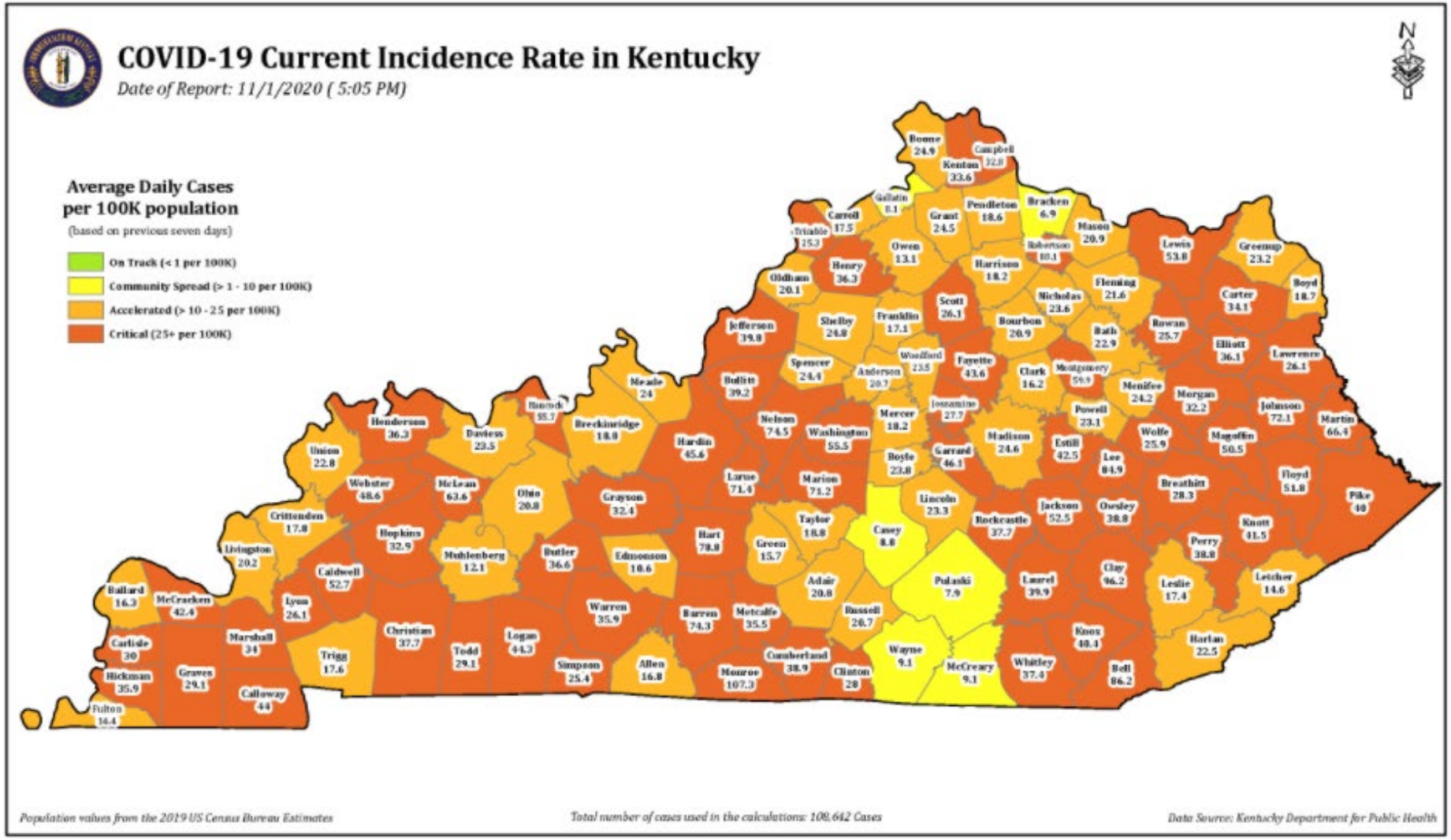
A5. Yes. Section 11(c) retaliation complaints, and OSHA reporting and investigation, leading to potential citation(s) against the employer for any violations.

Q6. What is the OSHA general duty clause and what is the risk of a violation?

A6. The General Duty Clause requires each employer to (1) "furnish to each of [its] employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees," and (2) "comply with occupational safety and health standards promulgated under" OSHA.

CDC guidance should be consulted in assessing potential workplace hazards and to evaluate the adequacy of an employer's protective measures for workers.

Kentucky's State-Wide COVID-19 Chart



3 Kentucky Updates

Kentucky's State-Wide COVID-19 Chart

On July 20, 2020 the Kentucky Department for Public Health (KDPH) issued a travel advisory with the recommendation of a 14-day self-quarantine for travelers who went to any of the states reporting positive testing rate equal to or greater than 15 percent-of COVID-19 testing. This quarantine guidance applies to all leisure travel.

It is recommended to use extra precaution traveling to states reporting positive testing rate equal to or greater than 10 percent-of COVID-19 testing.

South Dakota	46.34%	Idaho	34.03%
Wyoming	31.75%	Iowa	30.58%
Kansas	27.57%	Alabama	25.86%
Nebraska	23.81%	Nevada	23.25%
Utah	16.09%	Montana	15.00%
Florida	4.85%*		

With little "fanfare," the website quietly removed those above 10%.... Why, you ask? ….
Wisconsin, 13.86%; Pennsylvania, 13.79%; North Dakota, 12.87%; Missouri, 12.5%; Arizona, 11.73%; Texas, 10.72%; **KENTUCKY 10.59%**; Arkansas, 10.3%, Tennessee, 10.14%. Concerned with manipulation and withholding of information

Questions & Answers

HRCI (Strategic/Business): 538716
SHRM: 20-W7JMY

HANNA RESOURCE GROUP

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