

In The News

Law360 Publishes Article by Joshua Bernstein, Kathleen Prystowsky, and Kristen Niven Analyzing the Impact of COVID-19 on Damages for Wrongful Termination of a Hotel Management Agreement

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Law360 published an article written by Joshua Bernstein, co-chair of Akerman's Hospitality Sector Team, Kathleen Prystowsky, and Kristen Niven analyzing the impact of COVID-19 on damages for wrongful termination for a hotel management agreement. Due to COVID-19, hotel revenues and occupancies dropped dramatically, but it has provided an unexpected opportunity for hotel owners the authors explain. When hotel owners terminate hotel manager agreements, they are subject to pay damages if they are found to be in breach of the agreement, and these damages can be steep. Since damages are tied to the hotel's projected revenues and the manager's projected fees, the impact of the pandemic on current revenue projections is likely to affect all three damages calculation factors: management fee projections, growth rate, and the discount rate.

"Hotels in most markets will by now be showing revenues reflecting nearly a full year of reservation cancellations, globally restricted travel, temporary complete shutdowns, occupancy limits, additional

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operational costs for safety and sanitation measures, and exposure to additional government regulations and penalties. Any damages assessment for terminating a hotel management agreement that is based, in whole or in part, on a hotel's 2020 financial performance, will reflect these depressed revenues and will, therefore, likely show a much smaller damages award for projected revenue-based fees.”

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