

# Chicago Daily Law Bulletin®

VOLUME 166, NO. 110

LAW BULLETIN MEDIA

## What the 1911 Triangle Factory Fire Tragedy Can Teach Us about Protecting Workers Rights – Not Diminishing Them

The owners of the Triangle Shirtwaist Factory in New York City weren't prepared for the disastrous fire in 1911 which took 146 lives, just as our country wasn't ready for a pandemic that has so far claimed over 125,000 lives, in the U.S. alone. Sadly, it often takes a disaster and death for people to unite, address their institutional problems and make systemic, meaningful change.

As our workplaces, law offices and the courts try to reopen this month, it's worth another look at the New York factory fire's notable impact on worker safety standards. The fire, a horrific tragedy for sure, can nonetheless be a teaching experience as we seek to return safely to work. How careful we are will have a significant impact on worker safety.

The fire caused the death of 146 mostly women and girls, many of them working class Eastern European immigrants. While trying to escape the higher floors of a multi-story building, many found exit doors locked, and they either burned to death or jumped to their deaths when fire department ladders could not reach past the sixth floor.

Out of this tragedy came improved safety conditions for workers. After the fire, the National Women's Trade Union League sent a questionnaire to factory workers about workplace safety and then

presented the workers' grievances to officials. Their actions moved the state to create a Factory Investigating Commission to assess workplace conditions in New York. The city formed the Bureau of Fire Prevention, which required fire alarms, extinguishers and hoses be installed in all buildings. Further, the so called "grand bargain" was reached. Employers agreed to pay medical bills and lost wages, regardless of fault, giving employees protections as they agreed to give up the right to pursue a case in court.

Meanwhile, the New York state legislature passed eight bills that addressed workplace sanitation, injury on the job, rest periods and child labor restrictions. In 1933, President Franklin D. Roosevelt signed the National Industrial Recovery Act into law, which protected workers' rights to join the unions.

Over 100 years later, we find ourselves in the midst of a new and arguably more deadly crisis, certainly by the numbers. The sudden emergence of COVID-19 threatens not only the state's most vulnerable populations but the hard won rights of Illinoisans and virtually all workers who may be exposed to COVID-19 in an unsafe workplace. What we need right now is the same kind of groundswell of public and private support that will bring about uniform, stringent safety measures – not efforts to immunize employers



**TODD A. SMITH**

*TODD A. SMITH is Senior Partner at Smith LaCien LLP in Chicago.*

whose larger worker populations are at significant risk.

The need for worker protections is great. The meat packing plants around the country, recently in the news for their extraordinarily high percentage of positive COVID tests, present the very contrast we shouldn't be encountering. COVID-19 legislation gave these plants millions in relief, but worker safety wasn't included.

Employees throughout the country are encouraged or even required to return to work, but at the same time, legislation is being pushed to immunize these same employers from carelessness regarding safety in the workplace related to COVID. If the legislation passes, employees will be required (some already are, as employers aren't waiting for passage) to sign waivers that immunize careless conduct with likely nothing but

"thoughts and prayers" once they have fallen ill. Perhaps we have not advanced as far as we thought over the last 100-plus years!

The COVID-19 pandemic presents unique circumstance where many jobs not typically considered hazardous have suddenly become dangerous for employees. Some workers, deemed "essential," include health care workers, mass transit operators and grocery store wage earners who are at a high risk of exposure while on the job. Immunity for employers from likely work-related exposure is not the right answer. Safety measures to protect workers and fair compensation if illness, injury or death comes from work exposure, is.

Lawmakers in some states have amended state laws so that COVID-19 infections for certain workers are presumed to be work-related and covered under workers' compensation. This presumption places the burden on the employer and insurer to prove that the infection was not work-related.

We are in for some difficult and challenging times in the months ahead. It is imperative we remember what was recognized over 100 years ago – that a safe workplace is essential. Without it, unnecessary injuries and deaths will likely result. The safety of working people, and by extension their families, should be our top priority.