meetings TODAY™ WEBINARS

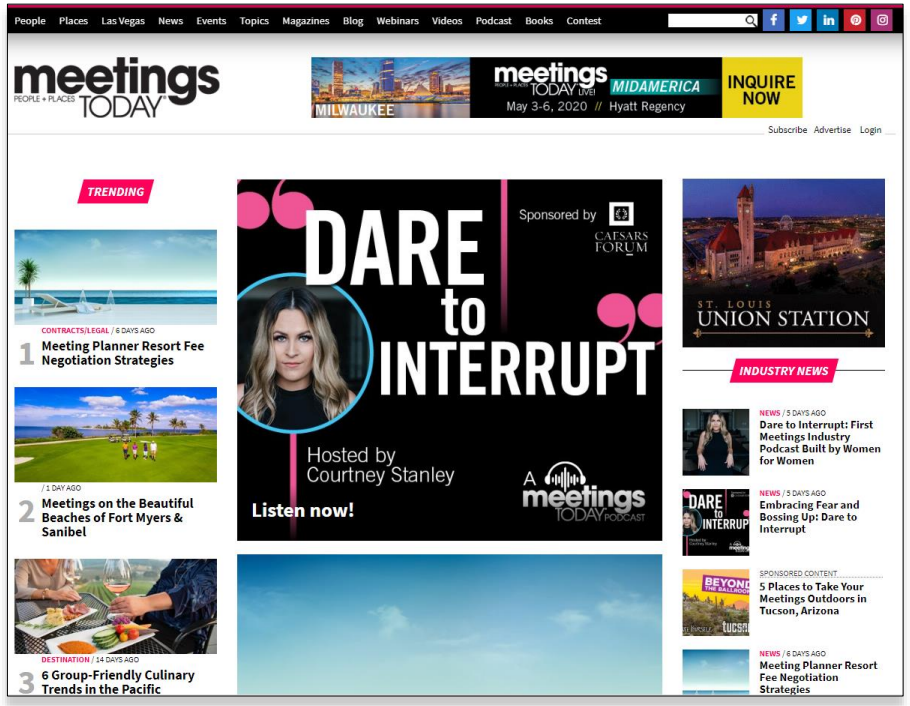
Legal Considerations in the Post-Pandemic Period

Wednesday, August 4, 2021

Presented by
Joshua L. Grimes, Esq.
Grimes Law Offices, LLC.

Moderated by
Tyler Davidson
Vice President & Chief Content Director
Meetings Today

meetings TODAY™ WEBINARS



meetings TODAY™ WEBINARS

Housekeeping

Today's Webinar is worth 1 continuing education hour in the Meeting and Event Design Domain of the CMP or CMP-HC Standards. To receive this credit for attending simply visit:
https://www.meetingstoday.com/webinar-club-contracts

Here you may also find a copy of today's presentation and watch the webinar On Demand. We will redirect you to this page following today's presentation.

Use the "Q&A" icon at the bottom of your screen to ask questions at any time. Should you experience any technical difficulties, please send a message in the Q&A area or call 800-553-8878 or 1-319-364-6167.

meetings TODAY WEBINARS

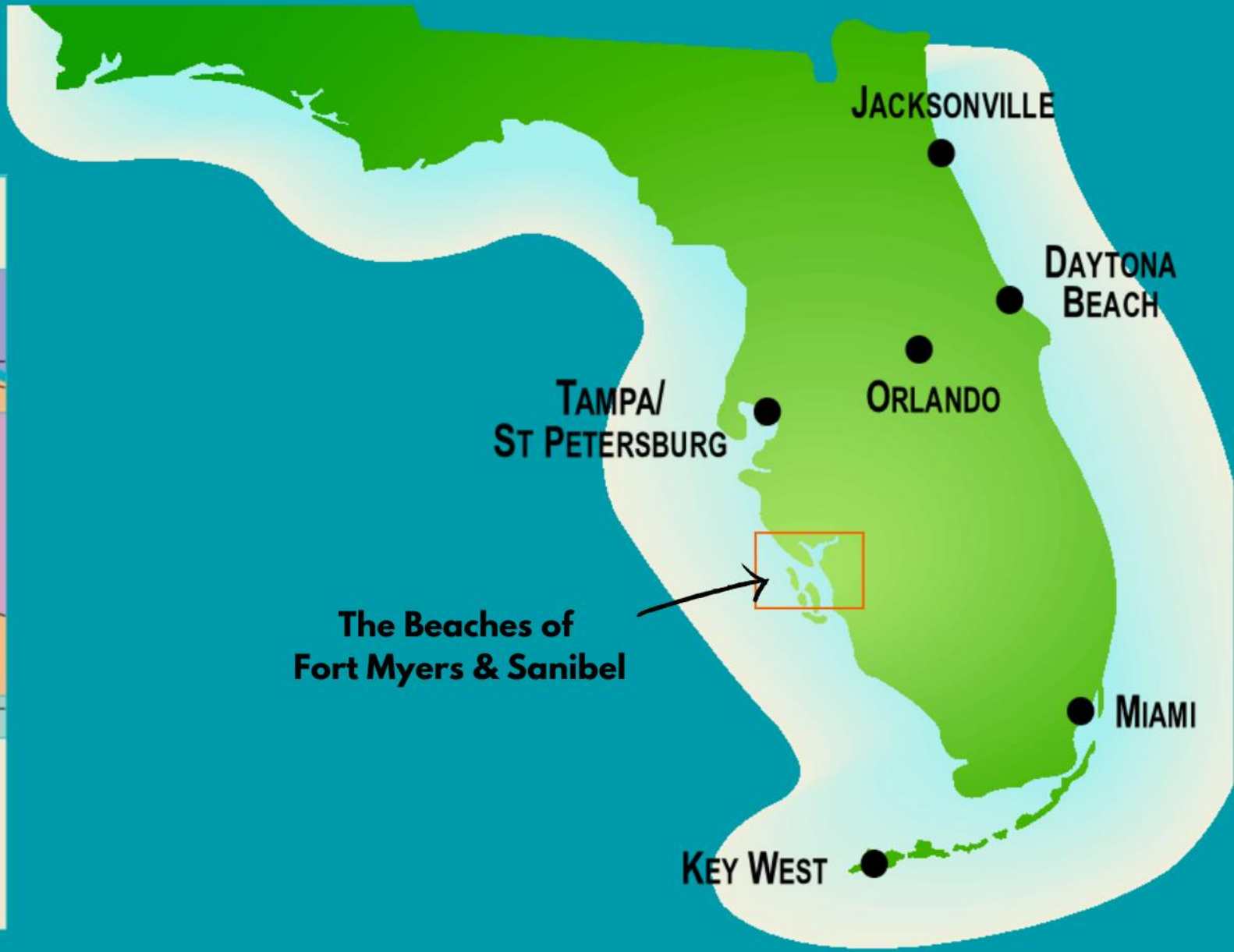
Thank You to our Partner:

THE BEACHES OF FORT MYERS AND SANIBEL

MAKING THINGS EASIER FOR YOU
COMES NATURALLY

THE BEACHES OF
FORT MYERS
AND SANIBEL
FORTMYERS-SANIBEL.COM

Boca Grande
Cape Coral
North Fort Myers
Cayo Costa Island
North Captiva Island
Pine Island
Lehigh Acres
Captiva Island
Fort Myers
Estero
Sanibel Island
Fort Myers Beach
Bonita Beach
Bonita Springs


JACKSONVILLE
DAYTONA BEACH
ORLANDO
TAMPA/ ST PETERSBURG
The Beaches of Fort Myers & Sanibel
MIAMI
KEY WEST

LEE COUNTY PORT AUTHORITY

Southwest Florida International Airport

0917
CANVA STORIES

0917
CANVA STORIES

0917
CANVA STORIES

0917
CANVA STORIES

0917
CANVA STORIES

0917
CANVA STORIES

0917
CANVA STORIES

0917
CANVA STORIES

0917
CANVA STORIES

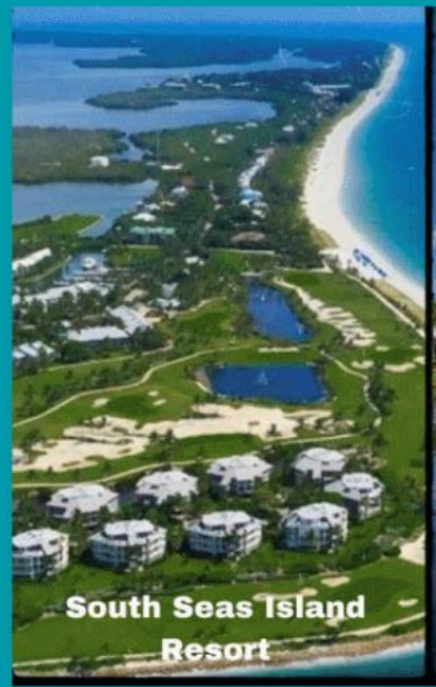
Our *natural settings*
improve meetings performance

Nature Preservation & Unique Wildlife

A full day starts with *wide open* spaces

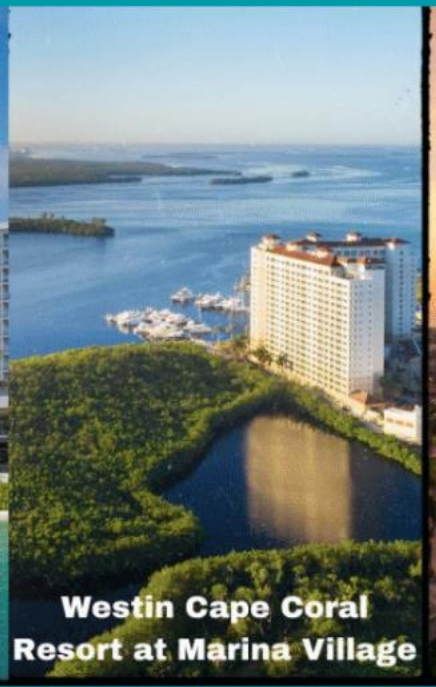
Insider Tip:
Beach Yoga at Sunrise

Outdoor Team Building Activities

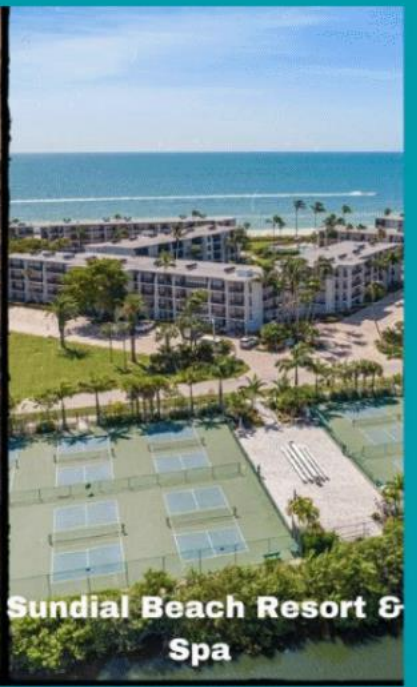

South Seas Island Resort

Hyatt Regency Coconut Point Resort & Spa

Sanibel Harbour Marriott Resort & Spa


Westin Cape Coral Resort at Marina Village

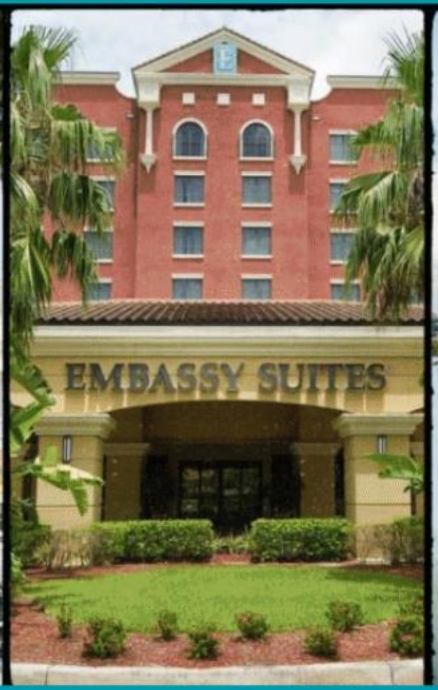
Luminary Hotel & Co.


Sundial Beach Resort & Spa

CROWNE PLAZA

Pink Shell Beach Resort & Marina

Gasparilla Inn & Club


EMBASSY SUITES

DiamondHead Beach Resort

MEETING PLANNER ISLAND INCENTIVE OFFER

Bring your NEW meeting to
The Beaches of Fort Myers & Sanibel
May - December
AND
receive a $3 rebate
per actualized room night

up to $5,000!

more details at
FortMyers-SanibelMeetings.com

THE BEACHES OF
FORT MYERS
AND SANIBEL

FORTMYERS-SANIBEL.COM

Jill Vance

Director of Sales

jvance@leegov.com

meetings TODAY™ WEBINARS

Today's Speaker

Joshua L. Grimes, Esq.
Grimes Law Offices, LLC.

LEGAL CONSIDERATIONS IN THE POST-PANDEMIC PERIOD

JOSHUA L. GRIMES, ESQ.
GRIMES LAW OFFICES, LLC

GRIMES LAW OFFICES
PERSONAL SERVICE, PROFESSIONAL RESULTS

©2021 Joshua L. Grimes, Esq.

This presentation is for informational purposes only and does not constitute legal advice. The sample contract clauses are for illustrative and educational purposes only. Those seeking legal assistance are directed to seek advice from a competent attorney of their choosing.

Copyright 2021 Joshua L. Grimes, Esq.

WHAT'S HAPPENING NOW?

- In-Person Meetings Slowly Resuming, But COVID-19 Remains a Factor.
- Virtual & Hybrid Meetings Here to Stay.
- Future Outbreaks Could Scare Prospective Attendees.
- Safety Practices of Fellow Attendees & General Public Remains a Concern.
- Contracting For Future Meetings is a Challenge.

Copyright 2021 Joshua L. Grimes, Esq.

CONTRACTING FOR NEWLY SCHEDULED IN-PERSON MEETINGS

- How to Contract for In-Person Meetings Given the Uncertain Future?

- Keys:

  - Contracting Parties Should Not Seek to Profit From Uncertainty.
  - Confidence of Attendees in Meeting Health/Safety Should be a Primary Concern.

- Comply With Government Mandates, or CDC Recommendations – Are There Liability Issues?

- Discuss Concerns with Venues & Suppliers Up-Front; Try to Gain Understandings.

Copyright 2021 Joshua L. Grimes, Esq.

HOTEL CONTRACTING

Issue: Hotels & Vendors Offering Tougher Contracts to Recover Revenue Lost from COVID.

- Tougher Force Majeure Clauses – “Impossible or Illegal”.
- Hotel Seeks to Recover Expenses/Cancellation Fees if Cancel for Force Majeure, Including COVID.
- Fees For Concessions if Room Block Not Met.
- Attrition Calculated Per Day, Not Cumulatively.
- F&B Goals May Increase if Functions Increase.
- No COVID Health/Safety Provisions.

Copyright 2021 Joshua L. Grimes, Esq.

COVID-19 CONTRACT PROVISION

- Draft Clause to Cover What We Know Now; And What Might Happen With COVID.
- Remember That Government Rules and “Best Practices” For Health/Safety Change Over Time.
- What Should Meeting Organizers, Venues, & Other Suppliers Do to Ensure Safety?
- Create Written Safety Plan.
  - Include Responsibility for Handling Attendees Testing Positive or Exposed On-Site.
  - Also Address Enforcement of Mask & Distancing Protocols.

Copyright 2021 Joshua L. Grimes, Esq.

COVID-19 CONTRACT PROVISION – SAMPLE TERMS

- Hotel to Provide List of Changes to Services & Facilities Due to COVID-19.
- Safety/Cleanliness Procedures May Include:
  - Daily & More Frequent Cleaning in Public Spaces.
  - Testing Hotel Employees, Meeting Staff, & Guests for COVID; Monitoring For Symptoms.
  - Distancing at Group Functions & Hotel F&B Outlets.
  - Giving Group Exclusive Access to Function & Public Areas.
- What if Venue Can't House Group in Contracted Function Space Due to Government Rules?

Copyright 2021 Joshua L. Grimes, Esq.

COVID-19 CONTRACT PROVISION

- Hotel Shall Implement Protocols & Best Practices to Protect Health of Attendees and Staff, in Accordance With Gov't Standards, Hotel's Policies, Commercial Practices, & Group's Requirements.
- All Protocols & Practices Should Meet or Exceed Standard of Care – Which May Change.
- Venue Should At Least Agree to Comply With It's Own Corporate COVID Policies (Hilton CleanStay, Marriott's Commitment to Clean).
- Hotel Should Indemnify Group From Claims, Judgments & Liability Arising From Failure to Comply With Agreed-Upon Standards.
- Remedies for Group if Health Threat Increases, Including Reduced Size Event or Cancellation Without Liability.

Copyright 2021 Joshua L. Grimes, Esq.

FORCE MAJEURE CLAUSE - *UPDATED*

Inclusions:

- Specifically Mention “Disease”, “Epidemic”, and “Pandemic”.
- Include “Government Regulations, Advisories, Recommendations, Mandates, Laws, Statutes & Orders.”
- Effect of Travel Bans – International & Company Policy.
- Self-Quarantine Mandates – States/Countries of Meeting or Place of Attendees’ Origin.
- Frustration of Purpose.
- Either Party Can Demand Evidence That Other Party Can Perform Obligations in Contract.

Copyright 2021 Joshua L. Grimes, Esq.

FORCE MAJEURE CLAUSE

- Key Words: “Impossible” “Illegal” “Commercially Impracticable” “Inadvisable”.
- Specifically Mention “COVID-19 or Related Disease” Going Forward.
- Allow Determination to be Made Sufficiently in Advance of Event’s First Day.
- Factors at Meeting Destination Not All that Matter; Consider Quarantine Rules for International Attendees and Travel Issues.
- If FM Conditions Exist, Group Has Option to Continue with Reduced-Size Meeting, with Rooms and F&B Attrition Waived; or Rescheduling.
- If Cancel, Include Time Frame for Return of Payments.
- Determination of Force Majeure Means Neither Party Liable for the Other’s Expenses.

Copyright 2021 Joshua L. Grimes, Esq.

FORCE MAJEURE – TIME FOR INVOKING

- Validity of Force Majeure Cancellation Generally Based on the Situation at Time of Cancellation.
- “Facts on the Ground” Must Prove It’s “Illegal, Impossible …” to Hold Meeting.
- If Circumstances at Time of Cancellation Don’t Warrant FM, Later Conditions and Government Rules Don’t Matter.
- Consider Setting Specific FM Decision Time in Meeting Contract; Customary Timing May Not Work.
- Think: When Would Hotel and Planner Know that Prospective Meeting Attendees Won’t Show Due to Unforeseen Occurrence?
  - Time When Registration Marketing Begins?
  - Date When History Shows Most Attendees Would be Registered to Attend?
  - Cut-Off Date?
  - Different Dates for Domestic and International Meetings?

Copyright 2021 Joshua L. Grimes, Esq.

CONTRACT PROVISIONS TO PROTECT FROM POST-COVID ISSUES

Issues:

- Hotel Upkeep May Lag Due to Deferred Maintenance.
- Hotels May be Understaffed For Meetings & Events, Including Housekeeping, Front Desk, & Banquet Staff.
- Ghost Kitchens.
- Hotel Facilities May Not All Be Open & Operating.
- Financial Instability Issues.

Copyright 2021 Joshua L. Grimes, Esq.

HOTEL & SUPPLIER FINANCIAL INSTABILITY

- Pandemic Left Some Hotels & Other Suppliers Financially Unstable.
- Some Properties Closed Permanently. Others Closed, But Planned to Re-Open.
- Uncovering Accurate Information Can Be Difficult; Often Hotel Staff Doesn’t Know.
- Steps to Take:
  - Was Hotel Closed During COVID? If so, that’s a Warning Sign.
  - When Did Hotel Re-Hire Staff as COVID Subsided?
  - Have Other Nearby Hotels Closed?
  - Look for Signs of Disrepair / Lack of Upkeep.
  - Google Hotel Name; Keep Up on News.
  - Exchange Information With Other Planners.

Copyright 2021 Joshua L. Grimes, Esq.

HOTEL & SUPPLIER FINANCIAL INSTABILITY

- Contract Terms For Financial Instability:
  - Right to Cancel Without Liability if Bankruptcy Filed Against Hotel, or Assignment for Benefit of Creditors, if Hotel Closes, or if Hotel is Unable to Pay Debts. Hotel Must Notify Group if These Happen.
  - If Hotel Financially Unstable But Still Operating, Push Deposit Payments Back as Much as Possible.
  - Consider Placing Deposits with Escrow Agent.
  - Confirm Number of Servers, Bartenders, & Other Employees at Events.
  - Maintenance of Quality Clause; All Facilities to be Open & Available.
  - Right to Cancel if Hotel Rebrands or Downgrades.

Copyright 2021 Joshua L. Grimes, Esq.

WAIVERS FOR IN-PERSON MEETINGS

- Waivers Help Reduce or Eliminate Liability for Meeting Hosts, Raise Awareness of Risks for Attendees.
- Not Just For COVID; Use for any Risks.
- Effectiveness Varies From State-to-State, Circumstances of Event.
- Tips to Increase Effectiveness:
  - Describe Risks & Waivers in Clear, Easy-to-Understand Language.
  - Distribute to Prospective Attendees in Advance of Event – When They Have Ability to Review and Decline.
  - Require Attendee Signature or Knowing Agreement (if online).
- Include Agreement to Cooperate With Contact Tracing.
- Post at Entrance to Event, and on Meeting Apps.

Copyright 2021 Joshua L. Grimes, Esq.

VACCINATIONS

- Can You Mandate COVID Vaccinations For Attendees & Employees?
  - Yes, But Consider Accommodations.
  - If You Want to Exclude Unvaccinated, Consider How Best to Do It.
    - Advance Notice.
    - Require Negative Test to Participate?

- Some Attendees Not Eligible for Vaccinations, Some May Refuse It.
  - Possible Reasons: Disabilities; Religious Beliefs.

- How to Prove Vaccination? Should You Require Proof?

Copyright 2021 Joshua L. Grimes, Esq.

DEALING WITH THE UN-VACCINATED

- Accommodating Non-Vaccinated Persons.
  - Consider Separate Areas, Virtual Programs.
- Vaccine Passports:
  - Do They Really Prove Vaccination?
  - What If Prohibited by Law?

- Alternatives to Vaccine Passports:
  - Conduct Meeting Registration Virtually (Headquartered in Passport-Allowed State).
  - “Meeting Participant” Membership Category.

Copyright 2021 Joshua L. Grimes, Esq.

MUST-KNOW CONTRACT CLAUSES – AUGUST 25TH

- More on Effects of COVID: Vaccine Mandates; Mask Mandates.
- COVID Liability: Duty of Care and “Shield Laws”.
- Virtual & Hybrid Meetings.
- Security Planning.
- More New Meeting Issues.

Copyright 2021 Joshua L. Grimes, Esq.

QUESTIONS & ANSWERS

JOSHUA L. GRIMES, ESQUIRE

(215) 529-8700

E-Mail: GrimesJ@GrimesLaw.org

Web: www.GrimesLaw.org

@JoshuaGrimes

Joshua Grimes

Grimes Law Offices

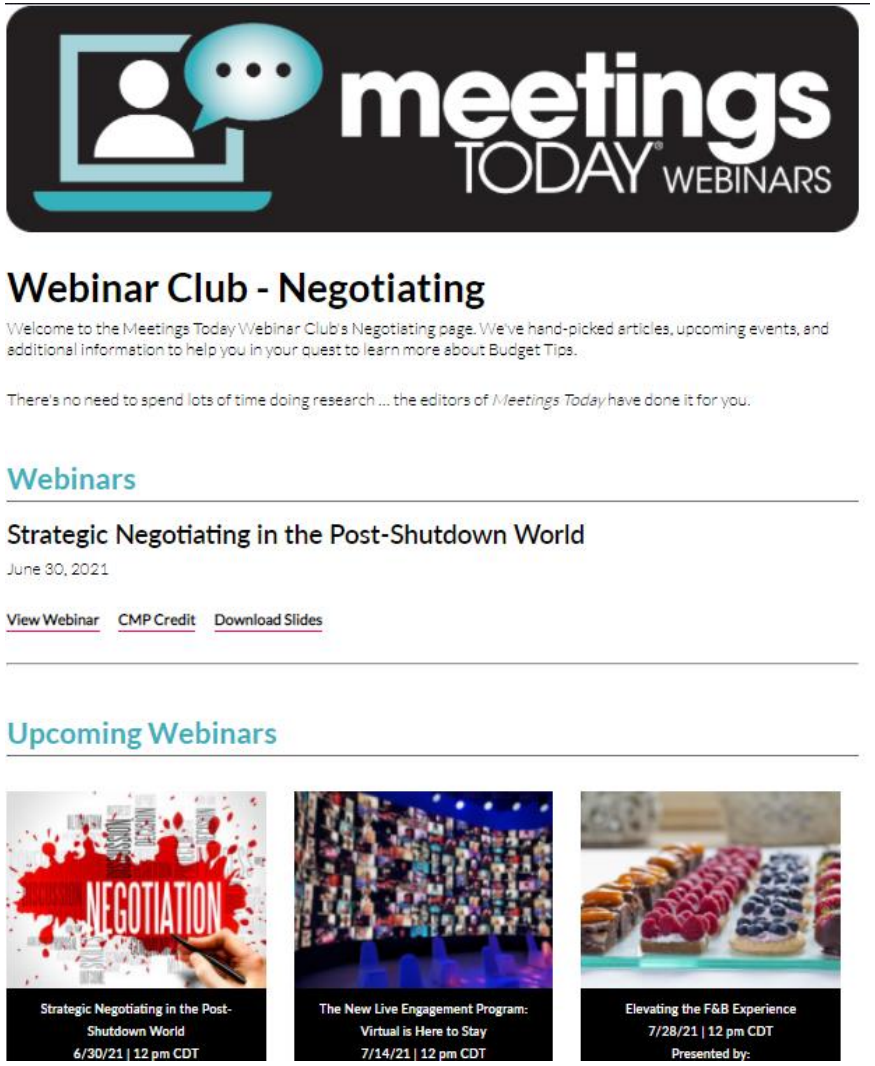
Copyright 2021 Joshua L. Grimes, Esq.

meetings TODAY™ WEBINARS

Thank You to our Partner:

meetings TODAY™ WEBINARS

Meetings Webinar Club Page



On each Webinar Club page, the individual sections will allow you to:

- Download webinar PPT slides
- View the webinar On Demand
- Obtain CMP Credit information
- Read related articles

...and so much more!

Each webinar has it's own Webinar Club page and URL!

For today's Webinar Club page, visit:

Meetingstoday.com/webinar-club-contracts

meetings TODAY™ WEBINARS

Thank you for joining today's webinar!

Legal Considerations in the Post-Pandemic Period