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CONTRACT LEGAL IMPLICATIONS – COVID-19

By John Fitzpatrick

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Am I bound by my “contract”?

- This question is now a big issue.
- The legal situation is that a party which does not want to be bound by a contract will claim “force majeure”.
- Force majeure (FM) applies to a clause which relieves a party to a contract from consequences impacted by events which are outside its control such as a pandemic.
- To prove FM, the affected party needs to show that the event or inability to perform was beyond its control.
- In NSW there is a Frustrated Contracts Act 1978 – this is an important piece of legislation.
- Another important aspect is the doctrine of frustration.
- What happens if there is no FM clause? The affected party may need to prove that it has been “frustrated” by events to stop it from completing the contract through no fault of the affected party.

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