



## BELL NUNNALLY'S CRAIG WARNER AND ROSS WILLIAMS ON COMMERCIAL FACTOR EXPLORE FORCE MAJEURE DURING COVID

November 15, 2021

**Bell Nunnally Partners Craig M. Warner and Ross Angus Williams authored the *Commercial Factor* article “*Force Majeure? More Like ‘Force Ma-Payment’*: Dealing with Payment Excuses in the COVID-19 Era.” (*Commercial Factor* is the official magazine of the International Factoring Organization.) The piece outlines some common defenses to payment for factoring companies as the COVID-19 pandemic continues to create disruptions to the normal flow of business and parties raise assertions that *force majeure* – a type of contract clause that can operate as a release when unforeseen circumstances prevent a party’s performance – has been triggered. As Warner and Williams detail, “[T]he answer will most often depend both upon the language of the contract itself and upon whether the objective of the contract has become truly impossible to perform.”**

Following their analysis of what *force majeure* legally entails and the standard of proof for claiming “impossibility of performance,” Warner and Williams close the article by noting, “And if there’s one thing COVID-19 has taught us, it is businesses can many times find a way to keep moving forward during economically stressful times if they take advantage of the options available and take reasonable steps to keep moving. When it comes to payment excuses and COVID-19, if there isn’t an enforceable, applicable and complied-with *force majeure* clause, then impossible is often nothing.”

To read the full piece, please click [here](#).

## Related Practices

---

Litigation

## Practice Area Contact

---

Ross Angus Williams