



**U.S. ARMY CYBER CENTER OF EXCELLENCE
AND FORT GORDON
OFFICE OF THE STAFF JUDGE ADVOCATE
Legal Assistance Division**



This Information Paper from the Fort Gordon Legal Assistance Division contains general legal information on a topic upon which Legal Assistance Attorneys typically advise. The information provided is general in nature and does not constitute formal, specific legal advice. If you wish to receive legal advice specific to your situation, please consult an attorney.

Cyber Advocacy: Consumer Contract Issues as a Result of COVID-19

You booked a vacation rental for April 2020 and paid a deposit, but now you can't go due to travel restrictions. Or your wedding was scheduled for 25 March 2020 and you paid several deposits for the vendors, but you had to cancel the wedding for health and travel reasons related to COVID-19. If your consumer contract has been affected by the Coronavirus (COVID-19) safety measures, the below information will help inform you of your legal rights and obligations.

1. Read the Contract and Contact the Provider- The very first thing you should do is read the contract. Does the contract contemplate what happens in the event of a major, unforeseen disruption? Often this contract provision is called a "Force Majeure" or "Act of God" clause, both of which are defined later in this paper. For active military members, a clause that covers "illegality" or "government regulation" may also be applicable. For instance, if you have orders not to travel more than 4 hours away, but you booked a vacation rental 6 hours away before you had a travel restriction, it may not be lawful for you to comply with the contract. Whether you are bound by the contract or whether you are entitled to a refund is going to be a specific, case-by-case determination.

After reading the contract, you should then contact the service or contract provider directly to find out what the provider offers as options. Many service providers will allow you to reschedule for a later date or give you a credit, if not a refund. When corresponding with a service provider, try to get as much information in writing as possible.

Also, remember that the timing of the contract is important. For example, if you booked an airline ticket in mid-May 2020, after COVID-19 was declared a pandemic, and that flight is later cancelled and it disrupts the rest of your travel plans, you may have assumed the risk of non-performance of the contract, as opposed to someone who made their reservation in November 2019, before the disruption was foreseeable.

If you are having difficulty interpreting the legal language of the contract, you can contact the Legal Assistance Division to schedule an appointment with an attorney.

2. **Force Majeure and Act of God**- Some contracts may only be cancellable if performance is impossible, not just impractical or inconvenient. Many contracts state that an uncontrollable event only *pauses* the contract until the event is over. **Force Majeure** is an irresistible force that is not within the control of the parties that makes the performance of the contract materially impossible. Force Majeure can be natural (like a flood or an earthquake), or man-made (like a war or a union strike). Many contracts now (as a result of other previous health crises such as H1N1, SARS, etc.) have clauses specifically saying a public health crisis is not considered Force Majeure.

Act of God- If there is no Force Majeure clause in the contract, for contracts in the state of Georgia, Official Code of Georgia (OCGA) § 13-4-21 (Effect of Act of God) may be applicable. An Act of God may excuse contract nonperformance. Act of God may include sudden death or illness, but Act of God specifically excludes “human agency,” meaning things controlled and decided by people. So even if the COVID-19 pandemic itself is considered an Act of God, that doesn’t mean that all of the man-made regulations that followed would also be considered an Act of God (e.g. travel bans to slow the spread of the virus). Other states may have different definitions and guidelines for Acts of God.

3. **Legal Impossibility**- If there is no Force Majeure or Act of God clause in the contract, or applicable state law, another argument may be “frustration of purpose” or “legal impossibility” in that neither party anticipated this pandemic and that the impossibility of the performance as originally envisioned extinguishes the contract.

4. **Credit Cards and Travel Insurance**- If you paid for the contract or deposit on a credit card, you may have the right to contest the charge with the credit card company, or ask the credit card company for protection under the Fair Credit Billing Act. If you purchased Travel Insurance, or another type of applicable contractual insurance, you may be entitled to relief under that insurance policy.

5. **Consumer Complaints**- If you wish to make a complaint about the contract provider, please visit <https://home.army.mil/gordon/index.php/my-fort/all-services/osja> and select “Legal Assistance” then “Consumer Protection” for a list of ways to make a formal complaint.

6. **Litigation**- If you are not able to come to an acceptable agreement with your contract provider, you may need to pursue litigation in court. Currently, many courts are operating on a limited basis for emergency cases only, so it may be several months or longer before you would be able to resolve a case in this manner. You should always consult with an attorney prior to filing a court case.

7. **Airlines**- During the COVID-19 pandemic, many airlines have relaxed their rules and fees regarding changing your travel dates or receiving travel credit to be used in the future. If you are seeking a refund instead of a future credit, review the ticket terms and the terms of any purchased trip insurance for Force Majeure or Act of God provisions. Additionally, the U.S. Department of Transportation has issued an Enforcement Notice (click [here](#)) to airlines informing them of their obligation to issue refunds in many circumstances due to COVID-19 flight delays and cancellations. At least one class

action lawsuit is currently pending against a major airline to attempt to force the payment of refunds instead of travel credits.

Additional Information

For additional information, the Fort Gordon Legal Assistance Division is located at 267 Heritage Park Lane, Building 35202, Fort Gordon, Georgia. You may reach the office by calling (706) 791-7812 / 7813. Please be advised you must have an appointment to consult with one of the attorneys; however, paralegals are available to answer general questions. At the current time, the Legal Assistance Division's office is closed for in-person consultations to comply with social distancing recommendations, but we are able to assist you telephonically.