

COVID-19 Lawsuits: Current Trends and What We Can Expect

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In the less than two-month period since the first confirmed case of COVID-19 was reported in the United States, courts at both the state and federal levels have seen a steady rise in the number of COVID-19 lawsuits filed. The first of these lawsuits was filed on March 9, by a couple quarantined on the Grand Princess cruise ship that docked in Oakland, California. On average, one new COVID-19 lawsuit is being instituted each day. Based on the emerging trends in the pending COVID-19 actions, additional lawsuits will continue to be filed during and after the pandemic. While the full legal impact of this pandemic is yet to be determined, it is becoming increasingly clear that all businesses must continue to diligently evaluate their legal obligations – to consumers, clients, patients, employees and shareholders alike – to mitigate potential liability risks.

- **Consumer Actions** – Since the filing of the first lawsuit against the Princess Cruise lines, several other cruise passengers from the same quarantined ship have filed identical lawsuits against Princess Cruise Lines Ltd. (“Cruise Lines”). The plaintiffs allege that Cruise Lines was negligent in its handling of the COVID-19 outbreak that occurred on the ship. In particular, they assert that Cruise Lines was aware that two of the ship’s passengers from a prior voyage had symptoms of, and were ultimately confirmed positive for, the virus and despite its knowledge that the infected passengers had come into contact with crew members and other passengers who remained on board, Cruise Lines made the decision to continue its cruise as planned with another three thousand passengers onboard. The plaintiffs further assert that, because of the alleged negligence of Cruise Lines, they were exposed to an “actual risk of immediate physical injury” and have suffered damages in excess of one million dollars.

While pending consumer actions target cruise lines, the current landscape makes it clear that COVID-19 litigation will extend to other industries under similar theories. Further, future lawsuits are likely to target key industries such as health care institutions, insurance companies, schools and retailers. For example, retail giant Amazon was recently sued for its alleged wrongful increase in product prices during the recent spike in consumer purchases because of COVID-19.

- **COVID-19 Class Actions** - Another emerging theme is the increasing number of class actions lawsuits being filed in response to COVID-19. There are currently 7 pending COVID-19 class actions. These class action suits are aimed at a broad range of institutions and assert various causes of action. One that may gain widespread attention was filed against the People’s Republic of China and its corresponding health institutions. The complaint, filed on behalf of “individuals and business owners in the United States and State of Florida,” asserts various causes of actions based on the defendants’ alleged failure to contain the virus. Other COVID-19 class action lawsuits have been targeted towards

retailers (Amazon), banking institutions (Bank of America), cruise lines (Norwegian Cruise Lines) and pharmaceutical companies (Inovio Pharmaceuticals, Inc.).

- Actions against Banking Institutions – There is currently one pending lawsuit against Bank of America seeking to stop home foreclosures. The lawsuit, filed as a class action on behalf of “all West Virginia borrowers whose loans were serviced by” the Bank, seeks an injunction temporarily prohibiting foreclosures proceeding in West Virginia during the period of national emergency resulting from the COVID-19 pandemic. These types of actions will likely be rendered moot by state and federally enacted legislation such as the one discussed [here](#).
- FOIA Actions – Online news outlet, BuzzFeed, filed a Freedom of Information Act (“FOIA”) lawsuit against both the Center for Disease Control and the Federal Emergency Management Agency for their alleged failure to respond to the company’s various requests seeking various internal communications, studies and policies concerning the COVID-19 outbreak.

Overall, we can expect to see these trends continue as the number of confirmed COVID-19 cases and deaths continue to rise. We should also expect to see COVID-19 cases extend beyond the types of businesses targeted in the currently pending actions. We can expect to see an incline in COVID-19 related employment actions. As such, employers should continue to remain diligent in ensuring that their responses to novel COVID-19 situations align with their obligations under various employment laws. This [article](#) provides a detailed overview of the proactive measures an employer can take to mitigate the risk of exposing employees to COVID-19.

In addition to the impact COVID-19 has had on business-to-consumer relationships, business-to-business relationships will also be impacted, particularly as it relates to existing contracts. There is at least one pending breach of contract dispute arising out of a business’ decision to cancel an existing contract with an entertainment company due to the rising health concerns caused by COVID-19. And as COVID-19 continues to spread, prompting more cancellations and closings, it is likely that many more business contracts will under legal scrutiny. Relatedly, the businesses that remained open and decided not to cancel scheduled events amid the rising health concerns may be subjected to potential liability as to what information on COVID-19 was known at the time.