

COVID-19 Class Actions Update

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In the early days of the COVID-19 pandemic, dozens of class action lawsuits were filed across a variety of industries in the United States – with theories of liability ranging from hand sanitizer false-labeling allegations, cruise-line negligence claims, and airline ticket refund demands, to complaints about prisoner safety and alleged government takings. By mid-April 2020, we reported 72 such class actions had been filed nationwide. Eight months have since passed, and like the staggering rate of infection caused by the novel coronavirus, the early wave of related litigation has skyrocketed to upwards of 1,400 COVID-19 class actions. Cases span the country but are concentrated on the coasts and in big cities, as indicated below:

 COVID-19 Class Actions By State

The primary targets of this widespread litigation included property insurers who issued business interruption coverage to businesses impacted by coronavirus lockdowns; colleges and universities whose students are seeking refunds of tuition and fees related to campus closures; travel and entertainment industries (including the travel insurance industry), whose customers want refunds; and others as indicated below.

 COVID-19 Class Actions By Category

To date, life insurers have not seen a significant influx of this litigation. Risks may emerge in the future, however, given the national scope and wide-ranging theories asserted thus far and an anticipated evolution of the litigation as it matures. Labor and employment collective actions present one area of risk, with employees in many locations working exclusively from home, others returning to offices as the pandemic lingers, and still others engaged in hybrid working environments. Overtime practices, reductions in force, and the like may present enhanced risk as a result of COVID-19. Insurers should also be vigilant about consumer data security, policy lapses and related notices, and underwriting practices for new business.

Best practices must be updated as necessary across business units and departments to account for the extremely active COVID-19 class action environment. With vaccines on the horizon, the end of the pandemic may be within sight, but the end of related litigation is much further in the future.

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