

Coronavirus (COVID-19) Litigation: What to do (and what not to do) now, and how to prepare for the future

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Today's Speakers

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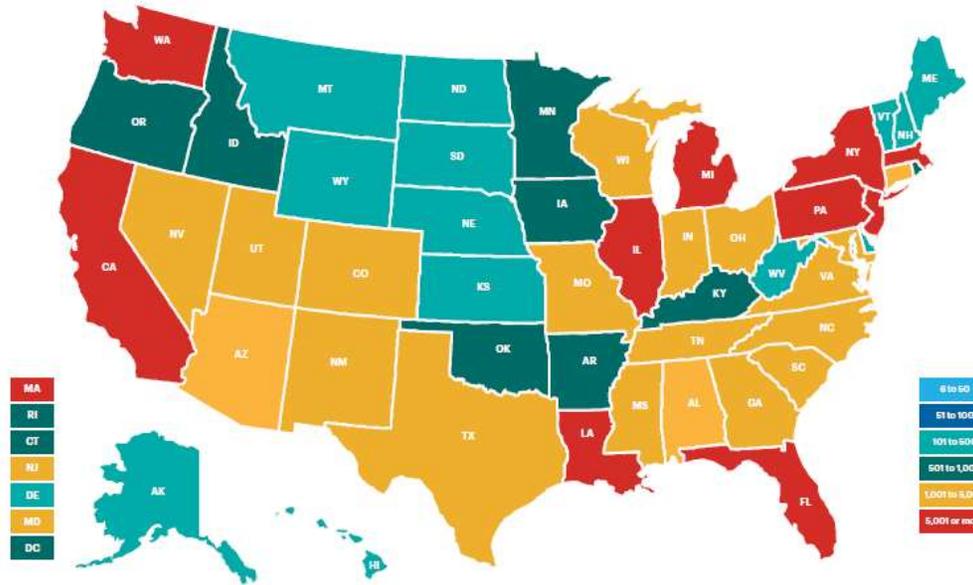
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Policy Update

Coronavirus Disease (COVID-19) in the US



States with confirmed and presumptive positive cases of COVID-19:

Total cases: 213,144
Total deaths: 4,513

101 to 500

- Alaska
- Delaware
- Hawai'i
- Kansas
- Maine
- Montana
- Nebraska

- New Hampshire
- New Mexico
- North Dakota
- South Dakota
- Vermont
- West Virginia
- Wyoming

501 to 1,000

- Arkansas
- Idaho
- Iowa
- Kentucky
- Minnesota
- Oklahoma
- Oregon

- Rhode Island
 - Washington DC
- 1,001 to 5,000**
- Alabama
 - Arizona
 - Colorado
 - Connecticut
 - Georgia

- Indiana
- Maryland
- Mississippi
- Missouri
- Nevada
- North Carolina
- Ohio
- South Carolina

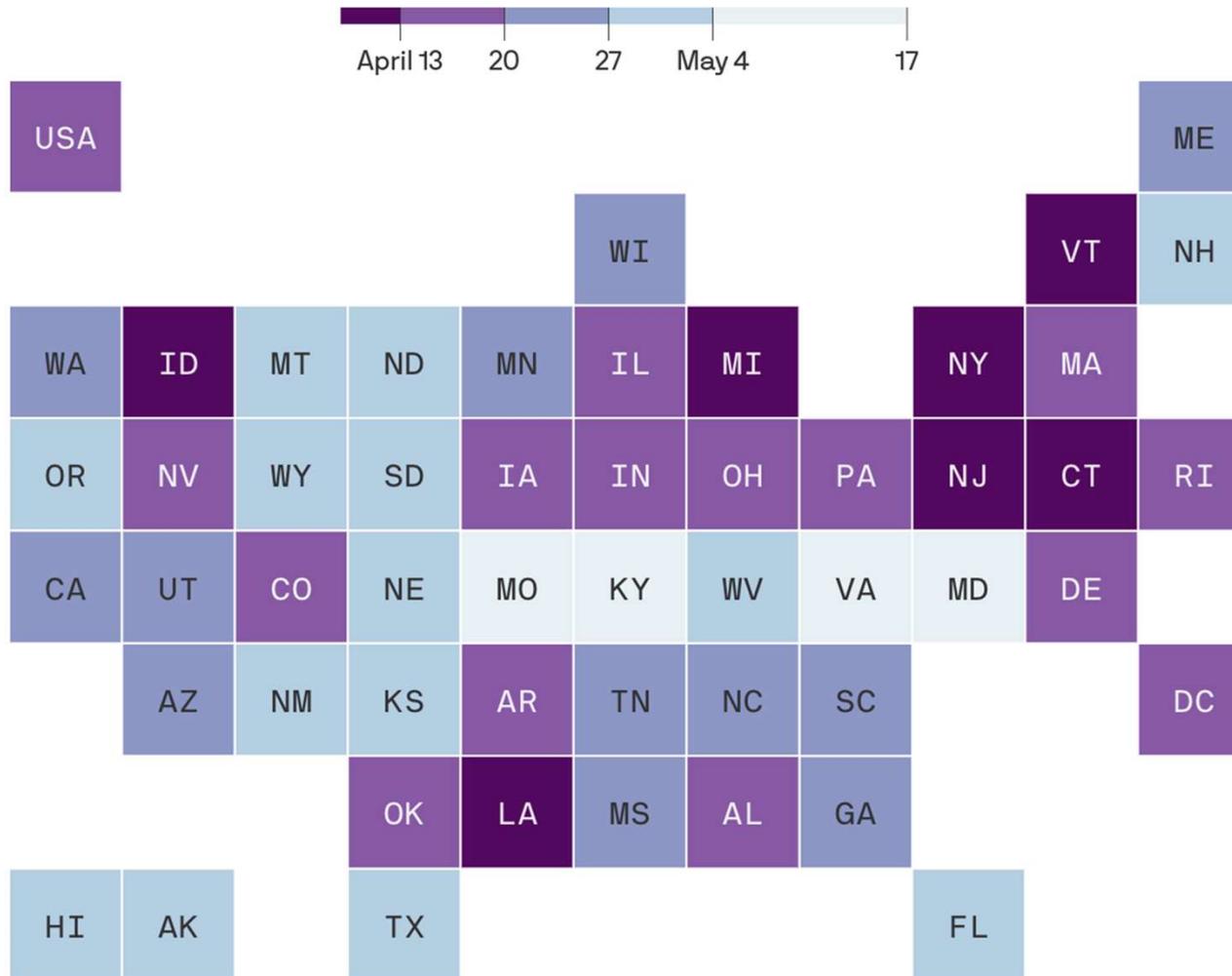
- Tennessee
 - Texas
 - Utah
 - Virginia
 - Wisconsin
- 5,001 or more**
- California
 - Florida

- Illinois
- Louisiana
- Massachusetts
- Michigan
- New Jersey
- New York
- Pennsylvania
- Washington

Date updated: April 02, 2020

Source: CDC, www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html

Projected Date of Peak Hospital Resource Demand Due to COVID-19



Data: [IHME](#) COVID-19 health service utilization forecasting team. Cartogram: Andrew Witherspoon/Axios

Announcing our COVID-19 50-State Tracker



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COVID-19 • 50-State Tracker

State	City / County							
Alabama	Birmingham	Montgomery	Mobile	Jefferson County	Mobile County			
Alaska	Anchorage	Juneau	Fairbanks	Fairbanks				
Arizona	Phoenix	Tucson	Mariocopa County	North Star Borough	Pima County			
Arkansas	Little Rock	Pulaski County						
California	Los Angeles	San Diego	San Francisco	Los Angeles County	San Diego County			
Colorado	Denver	Colorado Springs	Boulder	Arapahoe County	El Paso County			
Connecticut	New Haven	Hartford	Stamford					
DC	District of Columbia							
Delaware	Dover	Wilmington	Newark	New Castle County	Kent County			
Florida	Orlando/Orange County	Tampa/Hillsborough County	West Palm Beach /Palm Beach County	Miami	Miami-Dade County	Broward County		
Georgia	Atlanta	Augusta	Columbus	Fulton County	Gwinnett County	Cobb County	DeKalb County	
Hawaii	Oahu	Hauai	Big Island	Kauai				
Idaho	Boise	Meridian	Nampa	Ada County	Canyon County			
Illinois	Chicago	Aurora	Springfield	Cook County	DuPage County			
Indiana	Indianapolis/ Marion County							
Iowa	Des Moines	Cedar Rapids	Davenport	Polk County	Linn County			
Kansas	Wichita	Overland Park	The Unified Government of Kansas City and Wyandotte County	Sedgwick County	Johnson County			
Kentucky	Louisville	Lexington	Bowling Green					
Louisiana	New Orleans	Baton Rouge	Shreveport	East Baton Rouge County	Jefferson County			
Maine	Bangor	Portland	Augusta	Aroostook County	Piscataquis County			
Maryland	Baltimore	Annapolis	Montgomery County					
Massachusetts	Boston							
Michigan	Detroit	Grand Rapids	Lansing	Wayne County	Kent County			
Minnesota	Minneapolis	St. Paul	Rochester	Hennepin County	Ramsay County			
Mississippi	Jackson	Gulfport	Southaven	Hinds County	Harrison County			
Missouri	Kansas City	St. Louis	Columbia	Jackson County	St. Louis County			
Montana	Billings	Missoula	Great Falls	Bozeman	Yellowstone County	Missoula County	Gallatin County	
Nebraska	Omaha	Lincoln	Douglas County	Lancaster County				
Nevada	Las Vegas	Henderson	Reno	Clark County	Washoe County			
New Hampshire	Manchester	Nashua	Hillsborough County					
New Jersey	Newark	Camden	Trenton	Bergen	Hudson			
New Mexico	Albuquerque	Bernalillo County						
New York	Manhattan	Brooklyn	New Rochelle	Albany	Syracuse	Buffalo	Westchester County	Nassau County
North Carolina	Charlotte	Raleigh	Greensboro	Mecklenburg County	Wake County			
North Dakota	Brismarok	Fargo	Grand Forks	Burleigh County	Cass County	Ward County		
Ohio	Columbus	Cleveland	Cincinnati	Franklin County	Cuyahoga County			
Oklahoma	Oklahoma City	Tulsa	Norman	Oklahoma County	Tulsa County			
Oregon	Portland	Salem	Eugene	Multnomah County	Washington County			
Pennsylvania	Philadelphia	Pittsburgh	Harrisburg	Philadelphia County	Allegheny County			
Rhode Island	Providence County (City of Providence)	Bristol County	Kent County (City of Warwick)	Newport County (City of Newport)	Washington County (City of South Kingstown)			

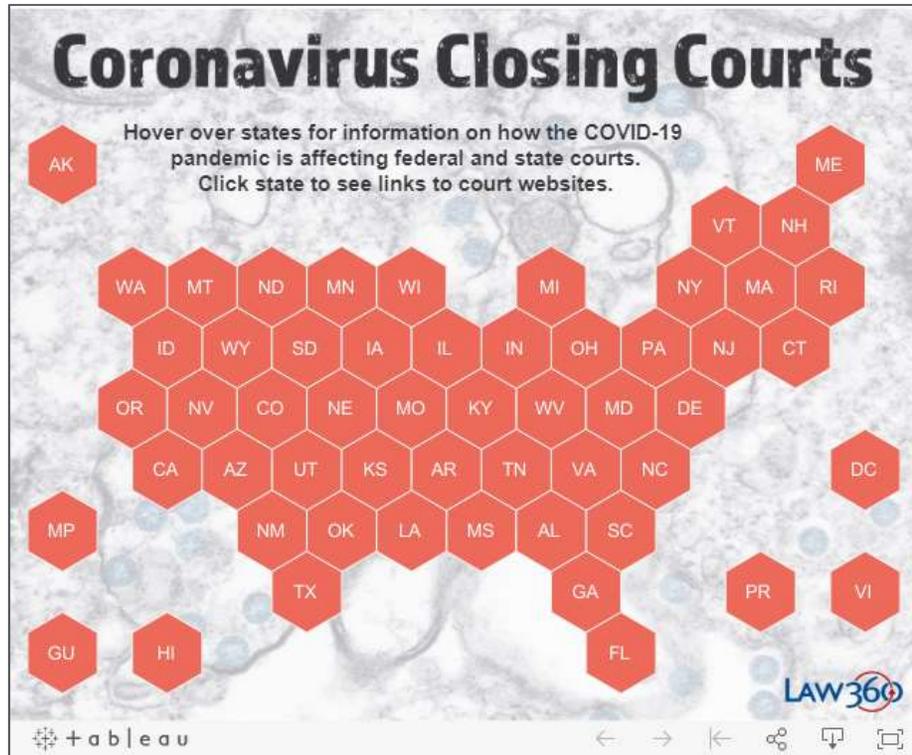
50-State Tracker includes:

- reviews of US state and local governmental orders;
- directives and financial assistance;
- official links;
- public restrictions;
- health and business directives;
- school closures;
- updates on courts and legislative sessions.

[Click here](#) to download the COVID-19 50-State Tracker

What to do with your “Active” Cases?

Is Your Court “Open”?



<https://www.law360.com/articles/1252836/coronavirus-the-latest-court-closures-and-restrictions>

- Access restricted to “authorized” persons
- Suspension of in-person appearances
- Telephonic appearances mandatory
- Civil jury trials continued
- Civil deadlines continued
- **“Essential” and “emergency” matters may proceed**
- **Individual judges’ discretion to manage cases**

What Should Litigators Be Doing During the “Slowdown”?



Litigators' Duties to their Clients During the "Slowdown"

- Duties owed to clients:
 - Communication: Keep clients informed of scheduling and related developments
 - Competence and Diligence: Continue to meet filing deadlines
 - Zealously Advocate and Advance Clients' Interests

What Law Firms Should Know About COVID-19

Law firms have additional considerations beyond the typical business or employer.

By **Shari L. Klevens and Alanna Clair** | March 18, 2020

<https://www.law.com/dailyreportonline/2020/03/18/what-law-firms-should-know-about-covid-19/>

Keeping Track of Deadlines

						
<p>RELEASE DATE March 13, 2020</p>	<p>RELEASE DATE March 15, 2020</p>	<p>RELEASE DATE March 16, 2020</p>	<p>RELEASE DATE March 19, 2020</p>	<p>RELEASE DATE March 20, 2020</p>	<p>RELEASE DATE March 22, 2020</p>	<p>FOR IMMEDIATE RELEASE March 23, 2020</p>
<p>PRESIDENTIAL</p>	<p>FOR IMMEDIATE RELEASE</p>	<p>FOR IMMEDIATE RELEASE</p>	<p>FOR IMMEDIATE RELEASE</p>	<p>THE ANGELES COURTS TO BE CLOSED</p>	<p>FOR IMMEDIATE RELEASE</p>	<p>FOR IMMEDIATE RELEASE</p>
<p>In response to the federal court orders issued by the Ninth Circuit Court of Appeals on Monday, March 16, 2020, the Superior Court of California, County of Los Angeles is hereby ordering the following:</p> <ol style="list-style-type: none"> All jury trials shall be postponed until further notice. All civil trials shall be postponed until further notice. Limit on the number of attorneys per party shall be reduced to one (1) attorney per party. <p>The Presiding Judge shall have the authority to close the courts in such emergency situations as may be necessary to protect the health and safety of the public and the court personnel.</p> <p>The Court will continue to monitor the situation and will update the public as necessary.</p> <p>For the latest information, please visit www.lacourt.org.</p>	<p>SUPREMACY SCALE</p> <p>Presiding Judge Kevin C. Brazile announced the operation of the public health emergency powers of the County Board of Supervisors.</p> <p>Over the past few weeks, the County Board of Supervisors has taken a methodical approach to the most pressing matters such as the public health emergency.</p> <ul style="list-style-type: none"> No new cases will be accepted for filing. The County will continue to monitor the situation and will update the public as necessary. 	<p>PRESIDENTIAL ALL NIGHT LARGELY TO AVOID A COLLISION WITH THE COURT</p> <p><i>Chief Justice Tani G. Cantil-Sakauye</i></p> <p>The Court</p> <p>In response to the COVID-19 pandemic, the Superior Court of California, County of Los Angeles is hereby ordering the following:</p> <p>every Los Angeles County Courtroom shall be closed to the public for the purpose of protecting the health and safety of the public and the court personnel.</p> <p>Civil, Probate, and Family Law matters shall be heard by video conference.</p>	<p>FOR IMMEDIATE RELEASE</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES</p> <p>Presiding Judge Kevin C. Brazile today announced that the Superior Court of California, County of Los Angeles is hereby ordering the following:</p> <p>"The Court operations possible to essential functions of the Los Angeles County Superior Court shall be limited to the following:</p> <p>Today's "A" retroactive to March 19, 2020, and</p> <p>Under today's Order, the Court will continue to monitor the situation and will update the public as necessary.</p> <p>Presiding Judge Kevin C. Brazile today announced that the Superior Court of California, County of Los Angeles is hereby ordering the following:</p>	<p>THE ANGELES COURTS TO BE CLOSED</p> <p>Effective March 20, 2020, the Superior Court of California, County of Los Angeles is hereby ordering the following:</p> <p>The Court and the provisions of the COVID-19 Public Health Emergency Order shall be applied to all courtrooms and public entrances.</p> <p>For individual courtrooms, the Court will continue to monitor the situation and will update the public as necessary.</p> <p>Unrepresented attorneys are encouraged to contact the Court for assistance.</p> <p>Updates will be posted on the Court's website.</p> <p>Issued by: Presiding Judge Kevin C. Brazile</p>	<p>FOR IMMEDIATE RELEASE</p> <p>PRESIDENTIAL</p> <p>CLOSURE OF COURTS</p> <p>Judges, Attorneys, and Staff</p> <p>Presiding Judge Kevin C. Brazile today announced that the Superior Court of California, County of Los Angeles is hereby ordering the following:</p> <p>Presiding Judge Kevin C. Brazile today announced that the Superior Court of California, County of Los Angeles is hereby ordering the following:</p> <p>Presiding Judge Kevin C. Brazile today announced that the Superior Court of California, County of Los Angeles is hereby ordering the following:</p> <p>The Court of Los Angeles County Public Health City Attorney</p> <p>The Superior Court of California, County of Los Angeles is hereby ordering the following:</p>	<p>FOR IMMEDIATE RELEASE</p> <p>PRESIDENTIAL</p> <p>ONLY AUTHORIZED PERSONS ALLOWED TO ENTER ANY SUPERIOR COURT OF LOS ANGELES COUNTY COURTHOUSE</p> <p>Presiding Judge Issues New General Order Restricting Courthouse Access to Authorized Parties Only Through June 22, 2020</p> <p>Effective Today, Order Delays Criminal and Civil Cases While Prioritizing Bail Review Hearings for the Next 60 Days</p> <p>Presiding Judge Kevin C. Brazile today signed a General Order to enact unprecedented measures in the nation's largest trial court to protect the public's health and safety during the COVID-19 Pandemic. Presiding Judge Brazile took this action after obtaining emergency powers pursuant to the provisions of California Government Code section 68115 and authorization by Chief Justice Tani G. Cantil-Sakauye, who conveyed those powers to him last week.</p> <p>"In response to the COVID-19 pandemic, the Court has taken numerous measures to protect the public it serves, as well as its staff and judicial officers, while fulfilling its statutory duties," Presiding Judge Brazile said. "In so doing, the Court is committed to implementing measures recommended by the United States Centers for Disease Control and Prevention (CDC) and the Los Angeles County Department of Public Health (DPH) and that are consistent with our obligation to maintain a safe workplace."</p> <p>Presiding Judge Brazile ordered, effective immediately, as follows:</p> <ul style="list-style-type: none"> Access to any and all Los Angeles County Courthouses shall be restricted at all times to Judges, Commissioners, court staff and authorized persons until further notice; <p>-MORE-</p>

Strategic Considerations During the “Down Time”

Keeping Your Case Moving

- When’s your next “big date”?
 - Trial
 - Summary Judgment
 - Key motion hearing

- Will cases be “reshuffled”?

LOS ANGELES SUPERIOR COURT COVID 19 UPDATE

FREQUENTLY ASKED QUESTIONS

CIVIL CASES

1. **Trial Dates:** All trials that were set to start within the period of March 23 to May 23, 2020 have been continued pursuant to an Order of the Chief Justice, dated March 23, 2020. In addition, in the Los Angeles Superior Court, pursuant to the Presiding Judge’s General Order, dated March 23, 2020, all trials set through June 22, 2020 are suspended.
 - a. **If my trial date is set to start after June 22, 2020 is it continued 60 days? No.** If you have a trial set to start AFTER June 22, 2020 it will remain set as scheduled. Example, if your trial is set to start on July 10, 2020, the trial will remain set for July 10, 2020, unless the judge assigned to the case finds good cause to continue the trial date.

Strategic Considerations During the “Down Time” (cont’d)

Keeping Your Case Moving

- Can you keep your “big date”?
 - Take depositions remotely?
 - Consider Pros and Cons
- **Remember:** individual (federal) judges may have significant discretion to move their cases along

Any registrant judge. For emergency contact the Clerk's Office at the appropriate. Although Court proceedings are online, the Courtrooms and Clerk's Office of Virginia remain open at this time to meet critical or emergency matters. As noted above, any take action to hold hearings or other proceedings on a case-by-case basis if such proceeding can be conducted in a manner that minimizes person-to-person contact and protects vulnerable individuals.

While our Courtrooms will remain open, every measure that the following persons are prohibited from the Courtrooms or U.S. Probation Office in the Virginia without prior permission from the Clerk's Office:

- (i) any person who has been diagnosed with COVID-19;
- (ii) any person who has been in contact with an individual who has been diagnosed with COVID-19;
- (iii) any person who has been instructed by any doctor, hospital, health care provider, or other authority to self-isolate or quarantine.

critical or emergency matters. As noted above, individual judges may take action to hold hearings or other proceedings on a case-by-case basis if such proceeding can be conducted in a manner that minimizes person-to-person contact and protects vulnerable individuals.

Strategic Considerations During the “Down Time” (cont’d)

Taking Advantage of the Delay

- Is your case **better on paper**?
 - Is oral argument necessary?
 - FRCP 78
 - Problematic live witnesses?
 - FRCP 77

Strategic Considerations During the “Down Time” (cont’d)

Taking Advantage of the Delay

- Many plaintiffs’ cases **don’t get better with age**
- If you need more time, now’s the time to ask
- **An Opening to Settle**
 - An “excuse” to open a dialogue without showing weakness
 - “By Halting Trials, Coronavirus May Push Parties To The Table”
<https://www.law360.com/securities/articles/1254743>

Strategic Considerations During the “Down Time” (cont’d)

Taking Advantage of the Delay

- What else can you do with the “luxury of time”?
 - Write that motion
 - Prepare those witnesses
 - What does your case *really* need?

LOS ANGELES SUPERIOR COURT COVID 19 UPDATE

FREQUENTLY ASKED QUESTIONS

- e. **Ex Partes:** What types of ex parte matters are being heard during the period of Emergency Period? **ONLY REAL** emergencies are being handled by ex parte. That means a discovery motion or some other motion that can be filed as a regular motion does not qualify as an emergency!

Remember to Keep Perspective

- Your case probably *isn't that* important.
- And your issue probably *isn't an* “emergency.”

“Judges Warn It's Not 'Business As Usual' Amid Pandemic”
<https://www.law360.com/legalindustry/articles/1256415>



Limiting or Mitigating Your Post-Pandemic Litigation Risk

Class Action Plaintiff Finder

Finding Plaintiff's Today Has Never Been This Easy!

Coronavirus Makes It Easier to Find Plaintiffs?

- **Data Breach**
 - Increased cyber-attack and privacy risks
 - (Un)secure confidential information
 - **Employee (re)training**
- **Employment Lawsuits**
 - Working from home is still work (meal breaks, overtime, etc.)
 - Workplace safety and accessibility issues
 - **Review obligations with employment counsel**

- **Exposure to the virus.** Are you a/do you have:
 - Ride-share
 - Airline
 - Hotel
 - Cruise ship
 - Retail stores
 - Any other high-traffic area?
 - **If so, are preventative procedures in place?**
- **Event Cancellations/Refunds**
 - Consumer class action concerning refunds already filed in LA Superior Court
 - Force majeure and related contract clause litigation
 - **Review your contracts and disclosures**

Litigation Risk: Putting Yourself in the Spotlight

- False and misleading advertising
- “Capitalizing” on demand (price gouging)
- **Continue a culture of “run it by legal”**

COVID-19: How FDA-regulated food and beverage companies can make hand sanitizer



Litigation Risk: New Complaints and Demand Letters

- Who's checking the mail?



- And remember: Evidence Preservation (Litigation Holds)

<https://www.dentons.com/en/-/media/e1daefa2db6545d2b26172b1e0cba8a5.ashx>

Don't Forget to Sue

- Are your statutes of limitation running, or are they tolled?
 - N.D. Ill., Texas, New York, Delaware, etc.
 - What about **laches** for equitable claims?
 - What about **time periods specified by contract**?

9. **What If I have a Statute of Limitations that will Run?** There is currently nothing that tolls the Statute of Limitations for cases so you should file your complaint electronically if you have a SOL pending. And if you have a matter that cannot be filed electronically you should have it dropped into the Drop Box for the Clerk's office.



Questions?

Thank you

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Stay up-to-date with all of our insights and guidance by visiting our US COVID-19 hub [here](#).

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