

COVID-19 THEMIS TASK FORCE MEMO

Dated April 14, 2020:

Themis Advocates Group provides you with the below update regarding the impact of COVID-19 on issues relating to business, insurance, and law in the United States. The below is not meant to be all inclusive, as regulations are changing each day and in each local jurisdiction, but provides an overview as to the trends in the United States and is meant to highlight orders and regulations most likely to impact Lloyd's and the London market.

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SUMMARY OF IMPORTANT LEGISLATION AND EMERGENCY ORDERS AND DIRECTIVES:

Below we provide an overview as to the types of legislative actions that have been occurring, both on a federal and state level. If you have any questions as to whether a particular legislative action has been taken in a given state, please contact a Themis member and they can provide contact information for the local Themis member who is on the ground in that jurisdiction.

- States are now entering into regional pacts to work together as to when to reopen from the stay at home orders. New York, New Jersey, Connecticut, Pennsylvania, Delaware, Rhode Island and Massachusetts are each sending a representative to a regional working



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group. Similarly, California, Washington and Oregon announced they will work together on incremental releases of the stay at home orders.

- Texas: The Texas Democratic Party has asked a judge to declare that the state's election code allows for vote by mail. Similarly, an Illinois voting rights group has filed suit seeking a declaration that it wants electronic signatures to be accepted during the pandemic.

INSURANCE AND COVERAGE RELATED NEWS AND ORDERS/LEGISLATION:

Below we provide an update as to regulations, news, and litigation specifically related to insurance and potential coverage related to the COVID-19 pandemic.

- California: The California Insurance Commissioner has ordered insurance carriers to return insurance premiums for at least March and April (and potentially May). This applies to six different lines: private passenger automobile, commercial automobile, workers' compensation, commercial multi-peril, commercial liability, medical malpractice, and any other line where the risk of loss has fallen substantially due to the COVID-19 pandemic. We expect further similar orders to come in other states.
- New Jersey: The New Jersey Department of Banking and Finance has extended grace periods for health, life, property and casualty insurance policies. The extensions include a minimum 60-day grace period for health and dental insurance policies and a minimum 90-day grace period for life, auto, homeowners and renters insurance. Under the order, insurers are barred from cancelling policies for nonpayment of premiums.

BUSINESS AND COMMERCE NEWS AND LEGISLATION RELATED TO COVID-19

Below we discuss news regarding the economic impact of COVID-19 and measures being taken to address that.

- More than 10% of U.S. citizens have filed for unemployment in the last three weeks. State unemployment registration systems are being overwhelmed by all of the filings and are reporting significant delays and issues.
- New York: Governor Cuomo has ordered all still open business in the state to provide masks to all employees who interact with customers.

LITIGATION/CIVIL JUSTICE SYSTEM UPDATES AND ORDERS:

Below we highlight additional cases filed related to the COVID-19 pandemic, along with changes to the statute of limitations made in Ohio.



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- Texas: Dallas County inmates have filed a lawsuit against the Dallas County Jail amid COVID-19 concerns. More than two dozen cases of COVID-19 have been confirmed in Dallas County Jail. Dallas County Sheriff Marian Brown has until April 15th to tell a Federal Judge what her jail is doing to guard inmates and employees against coronavirus. The inmates fear they'll become victims of the COVID-19 outbreak because, while locked up, they cannot physically distance themselves from other people and have little access to soap and face masks, the lawsuit says. The lawsuit seeks a temporary restraining order and immediate release of medically vulnerable inmates, or those with underlying health conditions. The Next Generation Action Network (NGAN) and the American Civil Liberties Union are listed as parties in the lawsuit.
- New York: 3M has filed suit in New York federal court against Performance Supply LLC, claiming that it offered to sell masks made by 3M to New York City at a grossly inflated cost of more than 500% the actual price. The suit claims that Performance Supply misused the 3M trademark and other tactics to mislead the city into thinking 3M authorized those prices.
- Pennsylvania: LH Dining, LLC, has brought a claim against Admiral Indemnity Co. arguing that it is owed coverage because the state order closing non-essential businesses triggered civil authority coverage under its commercial general liability policy. The restaurant seeks court ruling on whether orders from the local and state governments shutting down nonessential businesses were a “prohibition of access” under the civil authority extension of its insurance policy. LH Dining argues that the exclusions for losses due to viruses or bacteria do not apply because the local government shut down the restaurant rather than the virus itself.
- Illinois: A proposed class action in Chicago claims that United Airlines, Inc. violated consumer protection laws by refusing to refund passengers for cancelled flights. Instead of providing refunds, United has only offered to rebook or provide travel vouchers with a year expiration period.
- Michigan: A Michigan strip club has sued the federal Small Business Administration arguing that the agency violated the Constitution by having regulations that bar relief loans for business that have "live performances of a prurient sexual nature." The strip club has applied for a TRO in order to prevent the SBA from enforcing these regulations.
- Illinois: A dental clinic has filed suit against Cincinnati Insurance Co. seeking coverage for its loss of business. Sandy Point Dental argues that its claim was denied due to the pandemic not causing physical damage that would trigger coverage.



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