

Tort Alert: Recent Dismissals of COVID-19 Lawsuits Provide Lessons for Businesses Reopening

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It has been over six months since the World Health Organization (WHO) declared the COVID-19 outbreak a global pandemic. We are starting to gain insight into how courts will rule on critical pandemic-related questions, with early rulings highlighting the difficulties in bringing a lawsuit over exposure to the virus. Negligence is the most likely cause of action with a patron alleging the business failed to provide a safe environment. To prevail, a plaintiff must show the defendant owed a duty to provide a safe location, failed to meet that duty, caused injury to the plaintiff, which lead to damages.

The first cases to test these limits were brought by passengers who had been on cruise ships in the early weeks of the pandemic as states and countries began closing their borders and ports. In multiple lawsuits filed against Princess Cruise Lines, passengers allege the cruise line was negligent in allowing passengers onboard when staff knew passengers with the virus had travelled on prior voyages. Many of the cases were recently dismissed in the Central District of California, although plaintiffs may amend their allegations. Multiple federal judges found the plaintiffs had not properly alleged that the cruise caused them any harm. Cases claiming emotional distress from exposure to the virus have also been dismissed.

The rulings are notable because many of the passengers were on the ships for three weeks. Nonetheless, the judges found that simply contracting the virus is not enough to show injury because so many people have COVID-19 without any symptoms. One judge noted that a complaint alleging symptoms akin to the common cold should not be in court. The opinions also highlighted the need for a close connection between contracting the virus and the alleged exposure.

Although the plaintiffs have an opportunity to amend their cases, these initial rulings are indicative of the difficult road patrons will have if they sue over contracting COVID-19. Connecting the coronavirus to everyday businesses and events will be even more complex than the cruise ship cases. Potential plaintiffs who visit a business or event for only a part of their day will almost certainly be unable to isolate their exposure to one particular location. The prevalence of the virus in society will complicate plaintiffs' ability to show who caused their alleged harm. Courts may also not entertain cases where a plaintiff did not experience complications from the virus.



Legal protections for businesses are evolving as the federal and multiple state governments are considering litigation shields for coronavirus-related lawsuits.

It remains essential for all businesses to follow public health directives including social distancing and facial coverings. Any governmental requirements must be followed and documented when possible. Complying with best practices will show that a company has taken all reasonable steps to ensure the safety of its patrons. Provision of a safe environment can be shown by stringent adherence to COVID-19 protocols.

Each individual business and situation is unique and must be analyzed separately. If any organization has concerns regarding reopening, hosting events, its legal obligations or exposure, or other legal matters, it should consult with an attorney.

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