



Daily COVID-19 Bulletin

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May 19, 2020

To Our Clients and Colleagues:

Gibson Dunn's lawyers regularly counsel clients on issues raised by the COVID-19 pandemic, and we are working with many of our clients on their response to COVID-19. The following is a round-up of today's client alerts on this topic prepared by the Gibson Dunn team. Our lawyers are available to assist with any questions you may have regarding developments related to the outbreak. As always, for additional information, please feel free to contact the Gibson Dunn lawyer with whom you usually work, or any member of the firm's **[Coronavirus \(COVID-19\) Response Team](#)**.

GLOBAL OVERVIEW

Closed for COVID-19: Class Action Refund Lawsuits, Practical Considerations, & Potential Defenses

The COVID-19 global pandemic has changed the face of the world for businesses and customers as we know it. Public health mandates and local, state, and national shelter-in-place orders have required events to be canceled, plans to be postponed indefinitely, and facilities closed until further notice. In the wake of these closures and cancellations, consumer frustration has mounted, and scores of class action lawsuits have followed. This article examines the industries facing these lawsuits, describes the theories that plaintiffs are asserting, and provides some practical considerations and potential defenses for these lawsuits.

[Read more](#)

Recent Constitutional Litigation Challenging Governmental Responses to the COVID-19 Pandemic

In previous alerts, we discussed the constitutional limitations on governmental responses to COVID-19 under the Takings, Contracts, Due Process, and Equal Protection Clauses of the U.S. Constitution, and have also considered how the constitutional right to travel and the Dormant Commerce Clause limits governmental actors.

A number of businesses and others subject to COVID-19 regulations have now filed suit challenging governmental actions as unconstitutional, including under some of the same theories we identified in these prior alerts. Some plaintiffs have alleged that state and local responses to the COVID-19 pandemic, particularly shut-down orders, have effected unconstitutional takings without just compensation, are arbitrary and irrational and deprive them of fair notice and equal protection, and violate their right to travel. Other plaintiffs have brought Freedom of Assembly, Association, and Petition claims under the First Amendment, while others have raised Dormant Commerce Clause objections or challenges under the Republican Guarantee Clause.

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