

MELICK & PORTER, LLP COVID-19 MEMO:

Melick & Porter, LLP provides you with the below update regarding the impact of COVID-19 on issues relating to insurance in the United States. The below is not meant to be all-inclusive, but provides an overview as to the trends in the United States. If you have any questions regarding any of the updates below, please do not hesitate to contact us.

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.

- As a result of the COVID-19 pandemic, the United States Customs and Border Protection (CBP) has [announced](#) an extension of restrictions on “non-essential” travel across U.S. land bordered with Canada and Mexico. This latest extension is scheduled to last through September 21, 2020, with possible extensions beyond this date.
- Massachusetts public health officials announced on August 19, 2020, that the flu vaccine will be required for all students attending child care, pre-school, kindergarten, grade-school, and colleges or universities.
- On August 19, 2020, the Department of Health and Human Services published a [notice](#) allowing coronavirus tests developed by individual labs to be used without undergoing the Food and Drug Administration’s review.
- On August 12, 2020, the U.S. Department of State (DOS) issued additional [guidance](#) on national interest exceptions to the June 22, 2020 Presidential Proclamation, which restricted the entry of certain nonimmigrants due to the COVID-19 pandemic. The additional guidance broadens the exemptions to the entry ban for certain H, L, and J nonimmigrants, and allows those who qualify to request an emergency appointment at U.S. Consulates to obtain their visa and enter the U.S. while the entry ban remains in effect.
- New York Governor Andrew Cuomo said he will issue five executive orders to ease New York voting process in November.

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.

- The US Judicial Panel on Multidistrict Litigation on August 12, 2020, denied certain plaintiffs' motions to centralize lawsuits brought by businesses seeking insurance coverage for coronavirus losses. In rejecting complete centralization, the panel ruled that there are "very few common questions of fact, which are outweighed by the substantial convenience and efficiency challenges posed by managing a litigation involving the entire insurance industry."

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.

- On August 21, 2020, the IRS posted a [statement](#) indicating that it is aware that a "small population of employers" that reduced their tax deposits in anticipation of claiming the sick and family leave tax credits may have inadvertently received a notice stating there was a failure to deposit penalty applicable.
- The United States Labor Department's Wage and Hour Division advised that employers must pay workers for all hours worked remotely that the business knew about or had reason to believe were performed.
- The number of unemployment claims has [spiked](#) back up as about 1.1 million Americans filed first-time applications for unemployment insurance, the Department of Labor announced on August 20, 2020. That amount is up from 971,000 the prior week.
- New York has announced new restrictions for restaurants and bars that are open during the COVID-19 pandemic. The New York State Liquor Authority said that activities such as dancing, karaoke, live entertainment, comedy shows, darts, cornhole, and pool are not allowed at bars and restaurants.

LITIGATION/CIVIL JUSTICE SYSTEM UPDATES AND ORDERS:

Below we, highlight additional judicial orders related to the COVID-19 pandemic.

- The Massachusetts Trial Court's COVID Operations Committee has established a new email address to receive input from court users or court staff related to any aspect of court operations that may be causing a concern at this time of heightened anxiety. Messages can be sent to: tcconcerns@jud.state.ma.us.
- Pursuant to Connecticut Governor Ned Lamont's [Executive Order No. 7NNN](#), no person is permitted to enter a Judicial Branch courthouse or facility without covering his or her mouth and nose with a mask or cloth face covering. This order replaces [Executive Order No. 7BB](#) that was issued in April 2020.

- When coronavirus (COVID-19) cases spiked in March, court practices immediately changed, relying on virtual hearings that make it possible to conduct most court-related activities without coming to the building. Now, with courts [seeking to restore in-person proceedings](#), one thing already is clear, “justice in a pandemic environment will have a very different look and feel.”
- The Massachusetts Superior Court has issued an updated Order regarding the November 2020 Appellate Division sitting. In light of the ongoing coronavirus health crisis, the Appellate Division of the Superior Court hereby further orders that:
 - All hearings before the November 2020 sitting of the Appellate Division will be conducted remotely through the Zoom platform;
 - At least two (2) weeks in advance of the hearing, each party will submit electronically any and all materials he/she wishes the Appellate Division to consider, with a copy thereof to be transmitted to the opposing party; and
 - The Clerk of the Appellate Division will provide counsel with the Zoom link at least two (2) days before the hearing.