

HEADING TOWARDS AN EPIDEMIC OF CLASS ACTIONS

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While it is too early to fully assess the long-term impact that the Covid-19 pandemic will have on our lives and legal practices, there is a definite increase in litigation. In the field of class actions, plaintiffs' lawyers are not idle. Both here and south of the border, new actions are being undertaken, adding an additional challenge to businesses.

The Spread of the Coronavirus

China: One of the most unusual [lawsuits](#) is undoubtedly that of an American citizen brought against the People's Republic of China, the city of Wuhan and other Chinese public entities. Plaintiff alleges that the defendants knew that Covid-19 was dangerous and likely to cause an epidemic. Despite knowing this, the defendants allegedly covered up the reality of Covid-19 in order to protect their economic interests.

Princess Cruise Line: Also in the United States, an action was filed against the passengers of a cruise ship. The plaintiffs allege that the cruise company was negligent - choosing to continue the cruise despite the outbreak of confirmed cases and allegedly failing to take adequate measures to prevent the spread of the virus. The action was undertaken while the passengers were still confined to the ship.

Essential Services: Small businesses in the state of Pennsylvania have joined together to [challenge](#) the closure of non-essential businesses. They allege that the imposed closures are in fact uncompensated seizures violating the Fifth Amendment and infringing the substantive and procedural principle of Due Process. They also claim that the imposed closures will be fatal to them.

Breach of Contract

Cancellation: The airline industry is facing at least two class-action lawsuits in Canada regarding flight cancellations. Before both the Quebec Superior Court and the [Federal Court](#), airline ticket holders have filed class actions against certain companies to claim full reimbursement for cancelled flights, challenging the credits offered to them by airline companies.

Insurance: In Quebec, a new lawsuit was just filed on behalf of dental clinics against their insurance company. The plaintiff is accusing its insurer of refusing to comply with the interruption of operations clause during the

pandemic while their activities are reduced or interrupted.

SARS Outbreak

In 2003, the SARS outbreak gave rise to class actions in Ontario based on the allegedly insufficient measures put in place to prevent the spread of the epidemic. In the *William case*, a resident was seeking damages on behalf of individuals who contracted SARS during the second SARS outbreak. They alleged that Ontario failed to prevent the spread of the virus. In *Abarquez*, nurses sued the government for their exposure to the disease. In this case, the Ontario Court of Appeal ruled that, "(w)hile Ontario is obliged to protect the public at large from the spread of communicable diseases, it does not owe individual residents of the province who contract such diseases a private law duty of care giving rise to a claim for damages. Nurses and other health care workers have no higher claim to have their health protected by Ontario than any other resident of the public."

Conclusion

The wave of Covid-19 class actions has just begun. These actions add yet another challenge to the problems facing businesses and public institutions. Your legal advisors can assist you in mitigating the risks.

by Joséane Chrétien

A Cautionary Note

The content of this document is only a thumbnail sketch of the subject matter and shall not in any case be interpreted as legal advice. A reader must not use only this document to make a decision, but should rather contact his own legal advisers.

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