



GOV. DESANTIS SIGNS COVID-19 LAWSUIT PROTECTION BILL

APRIL 1, 2021

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Gov. Ron DeSantis **signed SB 72** into law on March 29, 2021.

The statute limits civil liability for damages relating to COVID-19. The law is expected to be a bulwark against certain lawsuits filed against businesses, schools, houses of worship and health care facilities.¹

Highlights of the legislation are below:

- The complaint must be pled with "particularity." This is a special standard for complaints requiring more detail than what most civil lawsuit complaints demand.
- The plaintiff must provide an actively-licensed physician's affidavit "which attests to the physician's belief, within a reasonable degree of medical certainty, that the plaintiff's COVID-19-related damages, injury, or death occurred as a result of the defendant's acts or omissions."

¹ The materials in this summary were prepared by Shutts & Bowen LLP for informational purposes only regarding SB 72 and should not be construed as legal advice. This information is not intended to create, nor does receipt or review of it constitute or create an attorney-client relationship. Our lawyers would be happy to discuss law SB 72 and provide individualized advice to clients upon request.

- Failure to comply with those first two requirements results in a dismissal without prejudice, meaning that the plaintiff can file a new lawsuit and try again to satisfy the requirements.
- The court must also determine whether “[t]he defendant made a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance at the time the cause of action accrued.” The plaintiff has the burden of proof to show that the defendant did not make a good faith effort. If the court determines that the defendant made a good faith effort, the defendant is immune from civil liability. If the court determines that the defendant did not make a good faith effort, the case proceeds, but there can be liability for the COVID-related claim only if the plaintiff proves gross negligence by clear and convincing evidence.
- A plaintiff must file a lawsuit for a COVID-related claim within 1 year after the cause of action accrues or within 1 year after the effective date of the new statute if the cause of action accrued before the effective date of the statute. The statute does not apply to lawsuits filed before the new statute was enacted.

**To contact the Shutts & Bowen COVID-19 Response Team,
please email us at COVID19@SHUTTS.COM or visit us at
www.shutts.com/practices-covid-19-solutions**