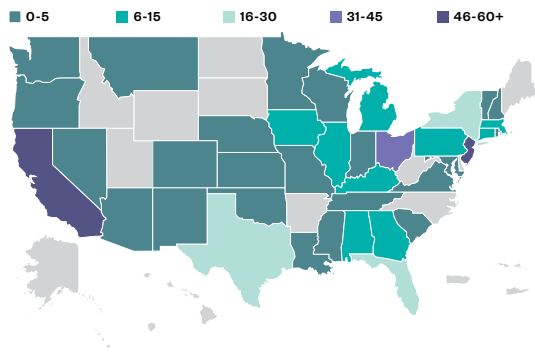


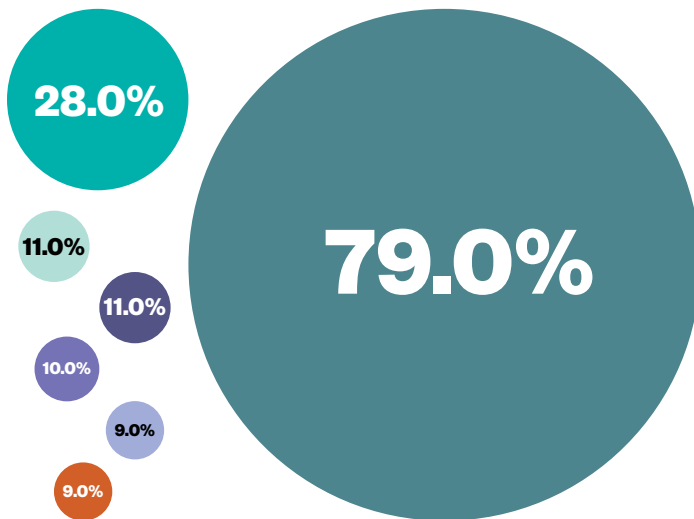
## COVID Lawsuits By State



The health care industry leads all others in employment-related claims arising from the COVID-19 pandemic. Health care employers are facing a surge of employment litigation, grappling with worker shortages, and managing the challenges of fully re-opened facilities. Employment litigation is concentrated in states where it typically flourishes (e.g., CA and NY), but states with early openings (e.g., TX and FL) also have seen a significant share of new cases.

## Key Issues

Termination-related claims (including from layoffs caused by revenue shortfalls and canceled or limited elective procedures) predominate, followed by workplace safety and retaliation claims, disability, and leave and accommodation claims.



Termination	79.0%
Retaliation - Safety Complaint	28.0%
Discrimination - Disability / Failure to Accommodate	11.0%
Workplace Safety	11.0%
Discrimination - Disability	10.0%
Leave - FFCRA	9.0%
Wage Hour	9.0%

## Key Trends

**Leave, Disability, and Accommodation-related Claims**  
Health care employers can anticipate rising leave, disability, and accommodation-related claims, including employee requests for remote work and other accommodations not often seen prior to the pandemic. Employees who are unwilling or unable to receive the vaccine, and employees unwilling to work alongside unvaccinated employees will present competing challenges.

**Workplace Safety Claims**  
Because of the pandemic, employees and regulators are more conscious than ever of workplace safety and compliance, particularly relating to infectious disease. Health care employers must be vigilant that policies implemented during the pandemic are evaluated and modified in light of new and changing CDC and OSHA guidance and regulations.

**Wage-Hour Claims**  
Health care employers must ensure that remote non-exempt workers are being paid for all time worked. Traditional off-the-clock allegations may proliferate alongside claims of lean staffing. In addition, many exempt roles have seen changes in job duties that could impact their exempt classification. New concerns, including expense reimbursement issues, will arise in a partially remote workforce.

## Prepared By



**Jim Swartz**

Partner, Atlanta  
(404) 704-9656  
jswartz@seyfarth.com



**Kristin McGurn**

Partner, Boston  
(617) 946-4858  
kmcgurn@seyfarth.com



**Dana Peterson**

Partner, Los Angeles - Century City  
(310) 201-5265  
dpeterson@seyfarth.com

The underlying data was collected in the course of our regular review of newly filed employment litigation related to the COVID-19 pandemic. The dataset may not include every case filed, but rather is intended to reflect general trends and observations.