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FLORIDA GOVERNOR RON DESANTIS SIGNS LAW TO PROTECT BUSINESSES FROM COVID-19 RELATED LAWSUITS

On March 29, 2021, Governor Ron DeSantis signed a bill that shields Florida businesses from lawsuits claiming COVID-19 injuries or damages. Based on a legislative finding that a “strong and vibrant economy” is essential to ensuring Floridians can continue to work, the law sets heightened pleading requirements, provides immunity for businesses who took good faith preventive efforts, and places a one-year statute of limitations on these lawsuits. The law became effective immediately.

The new law requires a complaint that asserts a COVID-19 claim for damages, injury, or death to be pled with particularity and include an affidavit signed by an active physician, attesting that, within a reasonable degree of medical certainty, the alleged injuries or damages were the result of the defendant’s actions or omissions. Should the plaintiff fail to comply with either requirement, the court must dismiss the lawsuit.

In addition, the law requires the court to determine whether the defendant made a good faith effort to comply with government-issued health standards or guidelines. The plaintiff bears the burden of demonstrating the defendant lacked good faith efforts. A defendant found to have made such good faith efforts would be immune from civil liability. However, even if a defendant lacked such efforts, the plaintiff must still prove, by clear and convincing evidence, that the defendant acted with gross negligence.

Finally, the new law contains a one-year statute of limitations for COVID-19 related lawsuits, and it applies retroactively. Thus, for causes of action that accrued before the law’s effective date of March 29, 2021, the statute of limitations would begin to run on the effective date.

As drafted, the law provides legal protections for a broad range of individuals and entities, including businesses, charities, and educational and religious institutions. The law does not apply to health care providers, which will be addressed in separate legislation.