



## COVID-19 Class Action Litigation Heats Up Over Temperature Checks

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Now in its 27th week, the Barnes & Thornburg Wage & Hour Practice Group's [COVID-19 related workplace litigation tracker](#) summarizes 535 complaints filed across the United States, in 12 different categories. This week's spotlight is on two familiar trends among the COVID-19 related workplace complaints summarized: Plaintiffs alleging they were not compensated for time spent related to COVID-19 safety preparation, and the pairing of unrelated workplace class action allegations with COVID-19 claims.

This week's update to the tracker includes one such case where the plaintiff brings a class action related to allegedly unpaid time spent during COVID-19 temperature screenings, and also alleges a plethora of other unrelated class-wide wage and hour allegations. The allegations in this case demonstrate the importance of employers ensuring not only that employees are properly compensated, but also that the compensation plans and policies are effectively communicated and consistently administered.

In *Jauregui, et al. v. Cytec Engineered Materials, Inc., et al.*, the plaintiff brought a class action on behalf of all non-exempt employees in the state of California, against a chemical manufacturer and certain related entities. The plaintiff seeks relief on behalf of the putative class for various wage and hour violations of the California Labor Code. In particular, the plaintiff alleges non-exempt employees were required to perform work-related tasks off the clock, including waiting in line to go through the defendant's security and

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waiting in line to be screened for COVID-19 through mandatory temperature checks. Allegedly, these “off the clock” tasks also included donning and doffing uniforms and other protective gear unrelated to COVID-19, such as steel toed boots, fire retardant pants and shirts, hard hats, safety goggles, masks, face shields, aprons, ear plugs, and gloves. Because these tasks were uncompensated, the plaintiff claims that the defendant failed to pay both minimum and overtime wages due, and thus failed to provide accurate wage statements. Additionally, unrelated to the COVID-19 claims, the plaintiff alleges violations of the California Labor Code for failure to provide meal and rest breaks, as well as for failure to reimburse for required expenses.

As the COVID-19 pandemic continues to impact the country, employer temperature checks have become commonplace. As we have previously observed, for the foreseeable future we anticipate [more litigation](#) pertaining to an [employer's safety-related response to COVID-19](#).

Because plaintiffs continue to bring additional unrelated wage and hour claims alongside COVID-19 allegations, the financial risks to employers are increased. Employers would do well to review their compensation and timekeeping policies to be sure they are in compliance. When in doubt, seek guidance from your labor and employment attorney. Contributors to the COVID-19 Related Workplace Litigation Tracker will continue to present on the trends we are seeing in our [monthly webinar](#), with the next one scheduled for Nov. 4. We will continue to track these trends as they unfold, and will continue to update the tracker each week. As always, stay tuned.