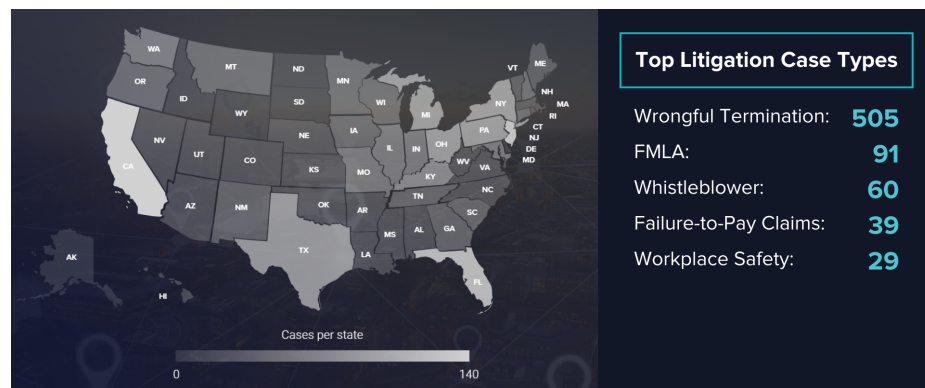




2020 Hindsight And A Look Ahead: COVID-19 Related Workplace Litigation Tracker

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The Barnes & Thornburg Wage and Hour Practice Group continues to monitor employment-related COVID-19 litigation, as it has done since the start of the pandemic, including the trove of useful information on its [COVID-19 Related Workplace Litigation Tracker](#). In total, the WHPG's tracker summarized a whopping 772 complaints filed in courts across the United States, broken down into 12 different categories. The tracker allows readers to peruse this wealth of information in a number of ways, including an interactive heat map demonstrating state-by-state litigation activity, organized chronologically.



The Wage and Hour Practice Group's efforts to date have resulted in a massive compendium of [useful reference material](#), and the tracker will remain available as a resource for readers.

Going forward, rather than continue to qualitatively summarize dozens of complaints on a weekly basis in the tracker, the Wage and Hour Practice Group will instead shift its efforts to providing more targeted weekly blog

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posts pertaining to developments in COVID-19 related workplace litigation. These weekly posts will include analysis of new or existing trends in COVID-19 related employment litigation, novel instances of COVID-19 related employment litigation or theories of relief, updates on cases or trends already summarized on the tracker, and legal and regulatory updates affecting complaints summarized on the tracker and COVID-19 workplace litigation generally.

Looking Ahead: FFCRA Expired, Now What?

One such legal update of importance to employers is the Dec. 31, 2020, expiration of the FFCRA. The FFCRA was enacted at the outset of the COVID-19 pandemic and provided both emergency paid sick leave and expanded family medical leave benefits to eligible employees who were unable to work for reasons related to the ongoing pandemic. The mandate to provide leave benefits under the FFCRA expired on Dec. 31 and was not extended. Instead, employers may voluntarily continue to provide FFCRA benefits, up to individual the limits originally specified under the FFCRA, and may seek a tax credit for doing so.

Of course, employers are still required to comply with state and local government mandatory COVID-19 related leave, where applicable. Employers also must comply with both the FMLA and ADA in responding to requests for leave or other reasonable accommodations associated with COVID-19, and should remain flexible in working with employees who imperfectly submit or pursue requests for protected benefits under these laws. We expect to see a tapering off of cases filed under the FFCRA, and an increase in leave-related litigation alleging violations of other federal, state and local requirements.

While the COVID-19 pandemic persists and as places of business reopen, employers will likely be faced with employees requesting leave related to COVID-19. Employers would do well to review all applicable state, local and public health requirements to comply with any leave obligations. When in doubt, seek guidance from your labor and employment attorney.

We will continue to track and report on these trends as they unfold, and will continue to present our monthly webinar, with the next one scheduled for Feb. 10. As always, stay tuned.