

## Illinois Court Rules That Filed-Rate Doctrine Does Not Preclude Excessive Premium Claims During Pandemic (Insurance Law Alert)

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### Holding

An Illinois district court declined to dismiss claims alleging that an insurer charged excessive premiums during the COVID-19 pandemic, ruling that the filed-rate doctrine did not apply. *Thomas v. GEICO Cas. Co.*, 2023 U.S. Dist. LEXIS 19332 (N.D. Ill. Feb. 6, 2023).

### Background

In response to reduced rates of driving during the COVID-19 pandemic, GEICO implemented a “giveback” program that applied a 15% premium reduction on automobile policies. Plaintiffs alleged that this reduction was insufficient in comparison to the reduction in policyholders’ risk profiles and therefore violated the Illinois Consumer Fraud and Deceptive Business Practices Act. GEICO moved to dismiss the suit based on the filed-rate doctrine, which prohibits courts from invalidating a rate that has been filed with a regulatory agency.

### Decision

Declining to apply the filed-rate doctrine, the court noted that the Illinois Department of Insurance only publishes filed rates and has no authority to set or approve automobile insurance rates. The court deemed this fact outcome determinative, rejecting GEICO’s assertion that the mere filing of a rate with a state agency is sufficient to implicate the filed-rate doctrine. While the Illinois Supreme Court has not addressed this issue, an intermediate state appellate court had also concluded that the doctrine does not apply where a rate is filed, but is not subject to regulatory approval. The court distinguished a Seventh Circuit decision that applied the filed-rate doctrine to claims against a public utility, explaining that it involved application of federal law rather than state law, and that the regulatory agency in that case (the Illinois Commerce Commission) had different authority and responsibility than the Illinois Department of Insurance.

### Implications

Last year, the Second Circuit dismissed identical claims against GEICO, ruling that the file-rate doctrine squarely applied because the premiums were approved by the New York Department of Financial Services. (See [June 2022 Alert](#)). In other contexts, courts have applied

the filed-rate doctrine broadly to bar statutory and common law claims against both insurers and intermediaries. (See [March 2022 Alert](#), [November](#), [October](#) and [January 2021 Alerts](#), and [September 2020 Alert](#)). The *Thomas* decision sets a limit on the scope of this doctrine, at least under Illinois law, for claims based on rates that are merely published by a regulatory agency, but not subject to any review or approval by that agency. However, the court acknowledged that other courts have held that filing alone is sufficient to implicate the filed-rate doctrine.

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