



pardon the interruption, again

Coronavirus Business Interruption, Part 2

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As we noted in an earlier release, some business interruption insurance policies may provide coverage for some COVID-related losses. While a few policies expressly cover such losses arising from viruses and epidemics, most are triggered by property damage at your place of business, near you, or at your suppliers' and/or customers' locations. Two possible impediments to finding business interruption coverage in more typical policies are (1) whether and in what circumstances a voluntary or government ordered shutdown triggers coverage; and (2) exclusions for losses related to viruses and other biologic agents. There are arguments and authorities supporting the notion that contamination of property constitutes property damage, and that government ordered shutdowns of property related to such damage trigger coverage. There may also be arguments regarding the applicability of biological agent exclusions. Lawsuits filed before the COVID situation arose are currently ongoing and may test those arguments. The outcome in those cases should help clarify coverage for COVID related claims.

As importantly, legislative efforts have recently gotten underway to address both of these issues. Members of Congress have written insurance industry executives asking that they consider COVID losses as covered business interruption losses. See letter here. And New Jersey is actively considering a bill that would make such losses covered regardless of exclusions and conditions in business interruption coverage to the contrary.

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