

CLIENT ALERT

Insurers' COVID-19 Notepad: What You Need to Know Now (Week of July 13)

Jul.14.2020

Plaintiff-Backed “Business Interruption Relief Act of 2020” Introduced in U.S. Congress

On June 29, 2020, U.S. Representative Mike Thompson [introduced](#) H.R. 7412, known as the “Business Interruption Relief Act of 2020.” The bill, championed by plaintiffs’ lawyer John Houghtaling, would create a “Business Interruption Relief Program” (BIRP) that purportedly would provide reimbursement for insurers that voluntarily paid COVID-19 business interruption claims under policies that include coverage for civil authority shutdowns but exclude virus-related loss, essentially encouraging insurers to retroactively grant coverage. The BIRP would not provide any benefit or reimbursement for payments of claims or claims expenses paid under policies that do not expressly exclude coverage for viruses. At this writing, the [congressional website](#) has not yet published the text of H.R. 7412. Several insurer, reinsurer and agent groups have expressed opposition to the legislation.

DC Councilmember Mary Cheh Introduces Proposed Legislation and Resolution to Toll Claim Deadlines During Pandemic

DC Councilmember Mary Cheh introduced the “Commercial Insurance Claim Tolling Emergency [Act of 2020](#),” the “Commercial Insurance Claim Tolling Emergency Declaration [Resolution of 2020](#),” and the “Commercial Insurance Physical Loss of Property Claim Tolling Temporary [Act of 2020](#),” which each propose to toll all deadlines for policyholders to exercise rights under an insurance policy or District of Columbia law with respect to claims for physical loss of property, loss of use of property, loss of occupancy, property damage, and loss of income, incurred expenses, and other business interruption losses caused by COVID-19 “for the length of the public health emergency, plus 90 days.” The resolution states that business “have reported that certain insurance carriers are universally denying business interruption claims” and that policies typically include “arbitrary deadlines” for “notice, proof of loss forms, and responses to requests for information and documents.” The proposed bills, which seek to effectuate the resolution’s intent to ensure “that businesses are provided appropriate time to review their policies, file any claims, and meet requirements to appeal any claim denials,” purport to toll all time periods for holders of a commercial insurance policy to exercise their rights under the policy for covered losses. The bills apply to commercial insurance policies in force as of March 25, 2020 that include coverage under the policy for losses in the District of Columbia.

New Business Interruption Suits Against Insurers:

Chez Panisse, a Bay Area restaurant, [sued](#) AMCO Insurance Company, a Nationwide subsidiary, in federal court (N.D. Cal.) alleging the insurer wrongfully denied its claim for business interruption losses due to California’s COVID-19 closure orders. The complaint alleges that Chez Panisse “bought full-spectrum, comprehensive insurance for their *business* – not just for damage to their physical premises and equipment,” which included Business Income, Extra Expense, and Civil Authority coverage. The complaint asserts that AMCO’s denial letter “appears to be a form letter sent in response to business interruption claims arising from California’s Stay at Home orders,” and “is contrary to the terms and conditions of the policy and applicable law, which gives effect to plain language, construes ambiguity in favor of coverage, and narrowly construes exclusions, the applicability of which insurers have the burden of proving.” In response, Nationwide issued a statement that “[b]usiness interruption coverage due to

a virus outbreak has been excluded from standard policies issued to business owners across the insurance industry for some time. The risk for such an event is so vast, including it in standard coverage would make such coverage unaffordable or even unavailable.”

The owner of a dental practice in Pennsylvania sued Liberty Mutual Insurance Group, Liberty Mutual Insurance Company, Liberty Mutual Insurance, and Ohio Security Insurance Company in federal court (E.D. Pa.), alleges that the defendants wrongfully denied the plaintiff’s claim for business losses arising from COVID-19. Complaint at ¶¶103-104. The “all risk” policy at issue allegedly provides business income, extra expense, and civil authority coverage. *Id.* at ¶¶25-27. The policy contains an exclusion for “loss or damage caused by or resulting from any virus, bacterium or other microorganism.” *Id.* at ¶68.

The owner of several day spas in Pennsylvania sued Travelers in federal court (E.D. Pa.), alleging that Travelers wrongfully refused to cover its “continuous operating expenses,” which it claims is an element of “business income” under the policy. Complaint at ¶¶24-25.

The owner of an optical goods store in Scottsdale sued Valley Forge Insurance Company in federal court (E.D. Pa.), seeking a declaration that its insurance policy provides coverage for any current and future closures of business due to physical loss or damage from COVID-19, and in the event that the virus has caused a loss or damage at the insured property. The “all risk” policy allegedly provides business income, extra expense, and civil authority coverage. Complaint at ¶¶14-21. The policy also contains a virus exclusion that applies to “loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness, or disease. *Id.* at ¶¶25-28.

A Texas design company sued The Cincinnati Insurance Company, Inc., The Cincinnati Casualty Company, Inc., and The Cincinnati Indemnity Company, Inc. in Texas state court (Travis County), asserting claims for breach of contract, non-compliance with the Texas Insurance Code, and breach of the duty of good faith and fair dealing. The “all risk” policy allegedly provides business income, extra expense, rental income, and civil authority coverage, and does not contain a virus exclusion. Complaint at ¶¶11-18. The Complaint alleges that the defendants wrongfully denied the plaintiff’s claim for coverage, in part based on the policy’s “pollutants” exclusion. *Id.* at ¶¶48-50.

The owner of restaurants in Seattle sued Fireman’s Fund Insurance Company in Washington state court (King County), asserting claims for breach of contract, bad faith, violations of the state Consumer Protection Act and Insurance Fair Conduct Act, and declaratory relief. The “all risk” policy allegedly provides business income, extended business income, extra expense, and civil authority coverage. Complaint at ¶¶6-11. The policy also contains a crisis management endorsement, which allegedly includes coverage for “premises contamination” by “communicable disease.” *Id.* at ¶¶14-15. The Complaint alleges that the insurer wrongfully denied the plaintiff’s claim for coverage without conducting an adequate investigation, “grossly mischaracterized coverage,” and incorrectly quoted the policy language. *Id.* at ¶¶45-56.

A hair salon sued Hartford Casualty Insurance Company in Florida state court (Hillsborough County), asserting claims for declaratory relief and breach of contract. The “all risk” policy allegedly provides coverage for loss of business income and extra expense caused by action of civil authority. Complaint at ¶ 5. The Complaint alleges that the plaintiff suffered loss of business income by action of civil authority due to the closure order’s prohibiting access to plaintiff’s salon and nearby property, because access was prohibited as the direct result of a covered cause of loss. *Id.* at ¶ 10. The Complaint further alleges that the insurer has “erroneously construed the subject insurance policy to require direct physical damage and that civil authority coverage is only applicable when access to the described premises is prohibited due to direct physical damage to other property.” *Id.* at ¶

26. The Complaint further alleges that the policy's virus exclusion does not apply because the plaintiff "is not alleging that any virus directly affected the property." *Id.* at ¶42.

A jewelry store sued Ohio Security Insurance Company in Florida state court (Hillsborough County), asserting claims for declaratory relief and breach of contract. The "all risk" policy allegedly provides coverage for loss of business income and extra expense caused by action of civil authority. Complaint at ¶ 5. The Complaint alleges that the closure order's prohibition of access to the plaintiff's store, as well as nearby property, is a covered cause of loss under the terms of the policy (*id.* at ¶ 12), and that the insurer "has erroneously construed the subject insurance policy to require direct physical damage and that civil authority coverage is only applicable when access to the described premises is prohibited due to direct physical damage to other property." *Id.* at ¶ 28. According to the Complaint, the policy's virus exclusion is inapplicable because the exclusion "was only meant to exclude the cost of damages to either the insured location or the insured's products when a virus specifically infected the insured location" and "there is no allegation that the insured property was specifically affected by the COVID-19 virus." *Id.* at ¶ 35.

A corporation that engineers and sells prefabricated steel buildings sued Indian Harbor Insurance Company, HDI Specialty SE, and Certain Underwriters at Lloyd's London in Florida state court (Broward County) for breach of contract. The "all risk" policy allegedly provides coverage for business income and extra expenses that result from an involuntary interruption of business operations and coverage for actions of civil authority. Complaint at ¶¶ 19, 31. The Complaint alleges that the COVID-19 pandemic is a "natural disaster" and "[l]ike other specific disasters, such as hurricanes or earthquakes, it involves substantial damage to property, hardship, suffering, and loss of life." *Id.* at ¶ 39.

The operator of a fitness center sued Markel Insurance Company in Florida state court (Hillsborough County), asserting claims for declaratory relief and breach of contract. The "all risk" policy allegedly provides coverage for business income and extra expense caused by action of civil authority. Complaint at ¶ 4. The insurer allegedly denied coverage on the bases that: (1) there was no direct physical loss or damage to property at the insured premises; (2) there was no covered cause of loss; (3) the information provided could not establish that the actual loss of business income sustained was caused by an action of civil authority; and (4) the loss is excluded by the policy's virus exclusion. *Id.* at ¶¶ 21, 26, 31, 36. The Complaint alleges that the policy's virus exclusion does not apply because "this endorsement was only meant to exclude the cost of damages to either the insured location or the insured's products when a virus specifically infected the insured location" and there "is no allegation that the insured property was specifically affected by the COVID-19 virus." *Id.* at ¶ 37.

The operator of Florida bowling alleys sued Certain Underwriters at Lloyd's London in Florida state court (Hillsborough County), asserting claims for declaratory relief and breach of contract. The "all risk" policy allegedly provides coverage for loss of business income and extra expense caused by action of civil authority that prevents access to the insured premises. Complaint at ¶ 6. The insurer allegedly denied coverage on the bases that: (1) there was no direct physical loss or damage to property at the insured premises; (2) there was no loss of access to the property; (3) there was no action taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage; and (4) the loss is excluded by various policy exclusions. *Id.* at ¶¶ 25, 30, 34, 38. The Complaint alleges that the policy's civil authority coverage "only requires 'damage' due to a covered caused of loss and does not require 'direct physical loss or damage.'" *Id.* at ¶ 27.

A dental professional association sued Bankers Insurance Company in Florida state court (Broward County) for breach of contract for the denial of coverage for losses due to Florida's COVID-19 closure orders. The "all risk" policy allegedly provides

business income, extra expense, and civil authority coverage. Complaint at ¶¶ 17, 29. The Complaint alleges that the COVID-19 pandemic is a “natural disaster” and “[l]ike other specific disasters, such as hurricanes or earthquakes, it involves substantial damage to property, hardship, suffering, and loss of life.” *Id.* at ¶ 37. The Complaint further alleges that the lost business income and extra expenses “due to a national disaster are covered under the Policy, are not limited and have not been excluded from coverage.” *Id.* at ¶ 47.

A real estate development and management company sued Zurich American Insurance Company in federal court (S.D. Fla.) for declaratory relief. The “all risk” policy at issue allegedly provides time element, extra expense, and civil or military authority coverage. Complaint at ¶¶ 8, 9. The Complaint alleges that the “presence of COVID-19 caused direct physical loss of/or damage to the covered properties under the All-Risk Policy by, among other things, damaging the covered properties, denying access to the covered properties, preventing customers from physically occupying the covered properties, causing the covered properties to be physically uninhabitable by customers, causing the function of the covered properties to be nearly eliminated or destroyed, and/or causing a suspension of business operations on the covered properties. *Id.* at ¶ 18.

A restaurant sued Scottsdale Insurance Company in Florida state court (Hillsborough County), asserting claims for declaratory relief and breach of contract. The “all risk” policy allegedly provides coverage for loss of business income and extra expense caused by action of civil authority. Complaint at ¶ 5. The Complaint alleges that the restaurant’s claim is a covered cause of loss “because the order of civil authority prevented access to Plaintiff’s property and caused the business to be shut down.” *Id.* at ¶ 21. The insurer allegedly denied coverage on the bases that there was no direct physical damage to property at the insured premises and that the loss is excluded by the policy’s virus exclusions. *Id.* at ¶¶ 23, 28. The Complaint further alleges that the virus exclusion does not apply, because it “was only meant to exclude the cost of damages to either the insured location or the insured’s products when a virus specifically infected the insured location” and there “is no allegation that the insured property was specifically affected by the COVID-19 virus.” *Id.* at ¶ 29.

The United Hebrew Congregation of St. Louis sued Selective Insurance Company of America in federal court (E.D. Mo.) seeking declaratory relief and damages in connection with claims for breach of contract and bad faith. Plaintiff alleges it was required to shut its doors as a result of the COVID-19 pandemic and related closure orders, and suspend operations and events that constitute the majority of its revenue. Complaint at ¶49. Plaintiff alleges that the “all-risk” policy’s Business Income, Extra Expense, and Civil Authority coverage provisions cover the claimed losses, and that the policy’s virus exclusion is not applicable, as the loss was “caused by a pandemic and the precautionary measures taken by federal, state and local official to prevent its spread.” *Id.* at ¶75.

The casino complex Circus Circus sued AIG Specialty Insurance Company in federal court (D. Nev.) seeking declaratory relief and damages in connection with claims for breach of contract. Plaintiff alleges the “all-risk” policy provides coverage for “loss as a consequence of the physical loss and damage caused by COVID-19 and the resulting Stay at Home Orders and other civil authority orders.” Complaint at ¶45. The Complaint alleges the policy’s Contingent Time Element, Extra Expense, Ingress & Egress, and Civil Authority provisions provide coverage for the losses Plaintiff suffered due to the COVID-19 pandemic, and that the policy’s “Pollutant or Contaminant” exclusion is inapplicable. *Id.* at ¶¶76-85.

A dentistry practice filed a declaratory action in New York state court (Kings County) seeking coverage for business losses sustained as a result of COVID-19 and state and local orders Plaintiff alleges that, as a result of orders issued by state and local governments, it “shut its doors to dental patients not receiving emergency care,” and sustained losses covered under the “all

risk” policy. Complaint at ¶¶67. The Complaint alleges that the policy’s virus exclusion is not applicable to “a national state of disaster like the current pandemic.” *Id.* at ¶80.

New Business Interruption Class Action Filings:

The owner of an art gallery, gift shop and restaurant in Utah sued The Hartford Financial Services Group, Inc. in federal court (D. Utah) on behalf of itself and all others similarly situated, asserting claims for declaratory relief and breach of the duty of good faith and fair dealing. The Complaint alleges that the defendant denied the plaintiff’s claim for business income coverage. Complaint at ¶¶15-16. The class is divided into nationwide and Utah subclasses, and is defined as “[a]ll persons and entities ... that (a) had Business Income coverage under a property insurance policy issued by Defendant; (b) suffered a suspension of business at the premises covered by their insurance policy issued by Defendant; (c) made a claim under their property insurance policy issued by Defendant; and (d) were denied Business Income Coverage from the presence or threat of COVID-19.” *Id.* at ¶¶37-38.

The operator of a salon sued Farmer’s Group, Inc. and Truck Insurance Exchange, on behalf of itself and all others similarly situated, in federal court (S.D. Fla.) for declaratory relief. The “all risk” policy allegedly provides business income, extra expense, civil authority, and business income from dependent properties coverage, but does not contain a virus exclusion. Complaint at ¶ 1. The Complaint alleges the insurers “have systematically denied and continue to deny and refuse to provide payment for insurance claims for coverage for similar losses and expenses by insureds holding policies that are, in all material respects, identical.” *Id.* at ¶ 3. According to the Complaint, the “presence of COVID-19 particles renders physical property unsafe and impairs its value, usefulness, and/or normal function, causing direct physical harm to property and resulting in direct physical loss and physical damage to property.” *Id.* at ¶ 33. The four proposed classes are defined as: (1) “[a]ll persons and entities with Business Income coverage under a property insurance policy issued by Defendants that suffered a suspension of business due to COVID-19 at the premises covered by the business income coverage;” (2) “[a]ll persons and entities with Civil Authority coverage under a property insurance policy issued by Defendants that suffered loss of Business Income and/or Extra Expense caused by a Closure Order;” (3) “[a]ll persons and entities with Extra Expense coverage under a property insurance policy issued by Defendants that sought to minimize the suspension of business in connection with COVID-19 at the premises covered by their property insurance policy;” and (4) “[a]ll persons and entities with Business Income from Dependent Properties coverage under a property insurance policy issued by Defendants that suffered an actual loss of Business Income caused by direct physical loss or physical damage at a dependent property or properties.” *Id.* at ¶ 62.

The operator of ice cream shops sued The Hartford Financial Services Group, Inc. and Twin City Fire Insurance Company, on behalf of itself and all others similarly situated, in federal court (S.D. Fla.) for declaratory relief. The “all risk” policy allegedly provides business income, extra expense, civil authority, and business income from dependent properties coverage. Complaint at ¶ 1. The policy does not contain a virus exclusion. *Id.* The Complaint alleges the insurers “have systematically denied and continue to deny and refuse to provide payment for insurance claims for coverage for similar losses and expenses by insureds holding policies that are, in all material respects, identical” (*id.* at ¶ 3), and that the “scientific community, and those personally affected by the virus, recognize COVID-19 as a cause of real physical loss and damage” and that “[c]ontamination of the Insured Property would be a direct physical loss requiring remediation to clean the surfaces within the Insured Property.” *Id.* at ¶ 32. The four proposed classes are defined as: (1) “[a]ll persons and entities with Business Income coverage under a property insurance policy issued by Defendants that suffered a suspension of business due to COVID-19 at the premises covered by the business income coverage;” (2) “[a]ll persons and entities with Civil Authority coverage under a property insurance policy issued by

Defendants that suffered loss of Business Income and/or Extra Expense caused by a Closure Order;” (3) “[a]ll persons and entities with Extra Expense coverage under a property insurance policy issued by Defendants that sought to minimize the suspension of business in connection with COVID-19 at the premises covered by their property insurance policy;” and (4) “[a]ll persons and entities with Business Income from Dependent Properties coverage under a property insurance policy issued by Defendants that suffered an actual loss of Business Income caused by direct physical loss or physical damage at a dependent property or properties.” *Id.* at ¶ 62.

A dentistry sued Main Street America Protection Insurance Company, on behalf of itself and all others similarly situated, in Florida state court (Hillsborough County), asserting claims for declaratory relief and breach of contract. The policy allegedly provides civil authority coverage. Complaint at ¶ 8. The Complaint alleges that losses due to Florida’s COVID-19 closure order “fall squarely within the Policy’s grant of civil authority coverage” and that the closure order “prohibits access to Sunshine’s premises due to *other* property sustaining the direct physical loss or damage of COVID-19 being present.” *Id.* at ¶ 16 (emphasis in original). The Complaint further alleges that the insurer employed its insurance agents “to preemptively send correspondence to its policyholders stating its intent to deny claims for lost income based on a purported exclusion for loss of income due to virus or other bacteria.” *Id.* at ¶ 18. The insurer allegedly “effectively denied the claim or repudiated or anticipatorily breached its obligations under the Policy” by “failing to provide any coverage decision despite being provided all requested information.” *Id.* at ¶ 29. The two proposed classes are defined as: (1) “[a]ll insureds of MSA whose policies were issued or delivered in Florida and whose policies contain civil authority coverage with the same or similar relevant terms as the Policy;” and (2) “[a]ll insureds of MSA whose policies were issued or delivered in Florida and contain civil authority coverage with the same or similar terms as the Policy and who submitted claims based on Executive Order Number 20-91 that MSA subsequently denied or intends to deny.” *Id.* at ¶ 35.

Blueshark Digital, LLC filed a class action complaint against The Hartford Financial Services Group, Inc. and Sentinel Insurance Company, Ltd. in federal court (D. N.J.) seeking coverage under the “all-risk” policy for business interruption losses resulting from the COVID-19 pandemic. The policies at issue allegedly provide Business Income, Extra Expense, Civil Authority, and Business Income from Dependent Properties coverage. Plaintiff alleges that it, like member of the putative class, was “forced to close its digital marketing business due to the COVID-19 pandemic” and government closure orders issued in response to the virus. Complaint at ¶2. The Complaint seeks declaratory relief for itself and members of the nationwide class, which is defined as all entities seeking coverage under a property insurance policy issued by the Defendants that suffered a suspension of business due to COVID-19. *Id.* at ¶57.

Plaintiff Hello Hospitality filed a class action complaint against Erie Insurance in federal court (D. N.J.) seeking coverage for business losses resulting from COVID-19. Plaintiff, on behalf of itself and members of the class, seeks coverage under the “all-risk” policy’s Income Protection, Extra Expense, and Civil Authority coverage provisions. Complaint at ¶12. The Complaint asserts the presence of COVID-19 and resulting Closure Orders caused direct physical loss to the Insured Property by damaging the and denying access to the property. *Id.* at ¶ 53. The Complaint seeks declaratory relief on behalf of all persons and entities holding a property insurance policy issued by Erie that suffered a suspension of business due to COVID-19. *Id.* at ¶61.

MDH Global filed a class action complaint against Certain Underwriters at Lloyds in federal court (D. N.J.) seeking coverage for business losses sustained as a result of COVID-19. The “all-risk” policy allegedly contains Vacation Rental Business Income, Extra Expense, and Civil Authority coverage provisions. Plaintiff alleges it was forced to shut its business due to government closure orders issued in response to COVID-19. Complaint at ¶12. The complaint seeks declaratory relief for itself and members of the

nationwide class, which is defined as all entities seeking coverage under a property insurance policy issued by the Defendants that suffered a suspension of business due to COVID-19. *Id.* at ¶50.

Motiv Group, Inc. filed a class action complaint against Continental Casualty Company in federal court (D. N.J.) for declaratory relief on behalf of itself and members of the nationwide class. . The policies allegedly provide Extended Business Income, Extra Expense, Civil Authority, and Business Income and Extra Expense - Dependent Property coverage. Plaintiff asserts the presence of COVID-19 caused civil authorities to issued orders requiring the suspension of business at “a wide range of establishments, including civil authorities with jurisdiction of Plaintiff’s business.” Complaint at ¶36. The Complaint asserts that, as “a result of the presence of COVID-19 and the Closure Orders, Plaintiff and other class members sustained a suspension of business operations” and business losses. *Id.* at ¶ 47.

Plaintiff Palm and Pine Ventures, LLC, a vacation rental business, filed a class action complaint against Certain Underwriters at Lloyds in federal court (D. N.J.) seeking coverage for business losses resulting from government orders issued in response to COVID-19. Plaintiff, on behalf of itself and all persons and entities holding a property insurance policy issued by Defendant that suffered a suspension of business due to COVID-19 and related Closure Orders, seeks coverage under the “all-risk” policy’s Business Income, Extra Expense, and Civil Authority coverage provisions. Complaint at ¶1. The Complaint asserts the presence of COVID-19 and resulting Closure Orders caused direct physical loss to the premises covered by the policy at issue by damaging and denying access to the property. *Id.* at ¶ 50.

A Los Angeles restaurant filed a class action lawsuit against Century National Insurance Company in California state court (Los Angeles Cty.) alleging the insurer wrongfully denied its claim for business interruption losses due to California’s COVID-19 closure orders. The complaint alleges the “all-risk” policy provides Business Income, Extra Expense, and Civil Authority coverage, and asserts claims for declaratory relief, breach of contract, bad faith, and unfair business practices under the California Business and Professions Code. The restaurant contends that despite the notice of the California Insurance Commissioner reminding insurers of their obligation to “conduct and diligently pursue a thorough, fair, and objective investigation of the reported claim,” Century National’s denial letter “appears to be a form letter sent in response to business income claims arising from the [closure] Orders. It is clear from the letter that there was no investigation of Plaintiff’s claim prior to the denial.”

An Ohio clothing store filed a class action lawsuit against The Hartford Financial Services Group and its subsidiary in federal court (D. Conn.) alleging the insurer wrongfully denied its claim for business interruption losses due Ohio’s COVID-19 closure orders. The complaint alleges the “all-risk” policy provides Business Income and Civil Authority coverage, and asserts claims for declaratory relief and breach of contract. The clothing store alleges that the Ohio closure order “in and of itself, constitutes a Covered Cause of Loss within the meaning of the Policy,” and to the extent that it does not, “the COVID-19 pandemic and the ubiquitous nature of the COVID-19 virus caused a direct physical loss of or damage to Plaintiff’s Covered Property.” According to the complaint, the policy’s virus exclusion does not preclude coverage because “Defendant should be estopped from enforcing the Virus Exclusion, on principles of regulatory estoppel, as well as general public policy.”

The owners of two California restaurants filed a class action lawsuit against Capital Insurance Group and its subsidiary in federal court (N.D. Cal.) alleging the insurer wrongfully denied its claim for business interruption losses due to California’s COVID-19 closure orders. The complaint alleges that the all-risk policy included business personal property, business income, extended special income, and civil authority coverage, and brings a single cause of action for declaratory relief. The complaint alleges that the policy’s virus exclusion does not apply because, among other things, “the Virus Exclusion in the Policy was never intended by

the ISO nor Defendants to pertain to a situation like the present global Pandemic” and the exclusion “was first permitted by state insurance departments due to misleading and fraudulent statements by the ISO that property insurance policies do not and were not intended to cover losses caused by viruses.” Thus, the restaurants allege, “Defendants’ use of the Virus Exclusion to deny coverage here shows that the Virus Exclusion was fraudulently adopted, adhesionary, and unconscionable.”

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Laura Foggan

Partner – Washington, D.C.

Phone: +1 202.624.2774

Email: lfoggan@crowell.com

Adam J. Singer

Associate – Washington, D.C.

Phone: +1 202.688.3508

Email: asinger@crowell.com