

Client Alert

Insurers' COVID-19 Notepad: What You Need to Know Now (Week of May 11)

May 11, 2020

COVID-19 Legislation:

The D.C. Council did not act this week on legislation that would require commercial insurance policies in force in the District on or as of March 25, 2020 that include coverage for loss of business income, loss of use and occupancy, or business interruption to be construed to provide coverage for claims directly or indirectly resulting from the COVID-19 public health emergency. No insurer would be permitted to deny a business interruption claim due to losses arising from actions an insured takes in response to a Mayor's Order during the public health emergency, or "[t]here being no direct or physical loss or physical damage" to the insured's property. The proposed legislation would apply to policies issued to insureds with fewer than 50 full time employees and less than \$2.5 million in federal gross receipts or sales in the previous year. It also would allow insurers to apply for reimbursement from the D.C. Department of Insurance, Securities, and Banking. After discussion, the D.C. Council chairman withdrew the bill and any legislative action was deferred for at least two weeks.

COVID-19 & Workers' Compensation

The Governor of California issued Executive Order N-62-20, which creates the presumption that any COVID-19 related illness of an employee arose out of the course of the employment for the purposes of workers' compensation benefits. Under the Executive Order, "any COVID-19-related illness of an employee shall be presumed to arise out of and in the course of the employment" provided that the employee: (1) "tested positive for or was diagnosed with COVID-19 within 14 days after a day that the employee" worked at the "employee's place of employment at the employer's direction"; (2) the work was performed on or after March 19, 2020; (3) the employee's place of employment "was not the employee's home or residence"; and (4) any diagnosis of COVID-19 is "confirmed by further testing within 30 days of the date of the diagnosis."

IAIS Cautions Against Mandatory Retroactive COVID-19 Coverage

In a May 7, 2020 report, the International Association of Insurance Supervisors (IAIS) emphasized the importance of efficient claims handling by insurers and prompt payment *where pandemic risks are covered* by the policy. The IAIS cautioned "against initiatives seeking to require insurer to retroactively cover [excluded] COVID-19 related losses." The report states "the costs of claims against losses have not been built into the premiums" and "such initiatives could ultimately threaten policyholder protection and financial stability."

New Business Interruption Suits Against Insurers:

A dental care provider sued Sentinel Insurance Co., Ltd. in federal court (E.D. Tex.), asserting claims for breach of contract, breach of the duty of good faith and fair dealing, gross negligence and/or malice, and violations of the Texas Prompt Pay Act. The “all risk” policy at issue allegedly provides coverage “for direct physical loss of or damage to Covered Property.... Caused by or resulting from a Covered Cause of Loss,” and contains a “fungi, bacterial, or virus exclusion.” Complaint at ¶¶ 9, 22. The Complaint alleges that Plaintiff provided Sentinel with a notice of claim after it closed its clinic as a result of the civil orders, which Sentinel denied without investigation and with several misrepresentations. *Id.* at ¶¶ 20-23.

Vizza Wash, the owner of several businesses in Texas, sued Nationwide Mutual Insurance Company in Texas state court (Bexar County), asserting claims for breach of contract, noncompliance with the Texas Insurance Code, breach of the duty of good faith and fair dealing, violations of Texas’s deceptive trade practices act, and negligent misrepresentation. The Complaint alleges that Defendants mishandled Plaintiff’s claim by failing to conduct an adequate investigation, denying coverage, and making “material misrepresentations” regarding policy provisions, coverage, and Texas law. Complaint at ¶¶ V, VI. In addition, the Complaint alleges that the Defendants conspired to “(1) misrepresent coverage to Plaintiff to dissuade it from submitting a claim, and (2) delay and deny Plaintiff’s claim.” *Id.* at ¶ VII.

Business owners in Virginia sued Mesa Underwriters Specialty Insurance Company in federal court (E.D. Va.), seeking a declaration that state civil orders constitute a prohibition of access to its property; that the civil orders triggered coverage; and that its policy provides coverage for any loss of business income and extra expense incurred as a result of the civil orders. Complaint at ¶¶ 37-42. The all-risk policy at issue allegedly provides loss of business income, extra expense, and civil authority coverage. *Id.* at ¶¶ 13-16. Plaintiff alleges that, as a result of state civil authority orders, it was required to cease business operations, and that the COVID-19 virus is physically impacting its property because the service nature of the business places staff and customers in close proximity to the property and to one another. *Id.* at ¶¶ 30-36.

The owner of a trucking company in California sued Evanston Insurance Company and Markel Corporation in federal court (E.D. Va.), seeking a declaration that California state civil orders constitute a prohibition of access to its property; that the civil orders triggered coverage; and that its policy provides coverage for any loss of business income and extra expense incurred as a result of the civil orders. Complaint at ¶¶ 39-44. The “all-risk” policy at issue allegedly provides business income, extra expense, and civil authority coverage. *Id.* at ¶¶ 14-18. Plaintiff alleges that, as a result of the civil orders, its trucking business is at limited capacity, and that the COVID-19 virus is physically impacting its property because the service nature of the business places staff and customers in close proximity to the property and to one another. *Id.* at ¶¶ 32-38.

The Anchor Bar sued Lloyds in Maryland state court (Frederick County) seeking Business Income, Extra Expense, and Civil Authority coverage for business losses sustained due to the Emergency Order issued by the Governor of Maryland in response to COVID-19, which mandated restaurants and bars close indefinitely. Complaint at ¶10. The complaint alleges that because “direct physical loss of and/or direct physical damage to” are not

defined policy terms insurers are precluded from denying the claim on grounds the coronavirus did not cause direct physical loss of or damage to the Property.

Odyssey Imports, a wholesale home décor retailer, sued Charter Oak in federal court (WD.La.) seeking damages in connection with Charter Oak's wrongful denial of claims for Business Income and Extra Expense coverage resulting from losses sustained due to the COVID-19 pandemic. Plaintiff alleges that as a result of the pandemic and closure orders it was required to close and has been unable to operate in the ordinary course of business. Complaint at ¶18. The Complaint alleges that the "all risk" policy at issue provides Business Income, Extra Expense, Civil Authority, Extended Business Income, and Delayed Net Income Loss coverage (*Id.* at ¶23), and that the insurer wrongfully denied coverage (*id.* at ¶27).

The owners/operators of several Indiana hotels sued EMC Risk Services in Indiana state court (Marion County) seeking damages in connection with claims for breach of contract, bad faith, and fraudulent misrepresentation. Plaintiffs allege "county and state governments in each of the jurisdictions in which Plaintiffs operate hotels" issued orders preventing customers from traveling to and staying at Plaintiffs' hotels. Complaint at ¶ 19. According to the complaint, the "continuous presence or continuous threat of COVID-19 on or around Plaintiffs' premises has rendered the properties unsafe and unfit for their intended use and caused physical damage or loss (*id.* at ¶ 20), and that the presence of COVID-19 and related government orders have resulted in covered business interruption losses under the policy, which EMC allegedly denied without performing "any materials investigation." *Id.* at ¶¶ 25-26.

Legal Sea Foods sued Strathmore Insurance Company seeking damages and declaratory judgment in connection with losses suffered due to COVID-19. Plaintiff alleges that as a "non-essential" business it was required to curtail restaurant operations to "carry-out or delivery services" only. Complaint at ¶¶60-70. According to the Complaint, the Strathmore policy does not contain a virus or pandemic exclusion and provides coverage for the suffered losses under the Business Interruption, Extra Expense, and Civil Authority coverage parts.

Ja-Del, Inc. sued Zurich American Insurance Company in Missouri state court (Jackson County) for business income losses related to government orders issued by the state of Missouri and Kansas. Plaintiff asserts that, despite a microorganism exclusion, the applicable policy provides coverage for its lost business income.

A medical practice sued Liberty Mutual Insurance Company in New Jersey state court (Bergen County) seeking coverage under a "commercial insurance policy" for business income losses. The complaint alleges "as a direct and proximate result" of state executive order declaring a State of Emergency in New Jersey, Plaintiff has and will continue to suffer a loss of business. Complaint at ¶ 15. According to the complaint, Liberty wrongfully denied Plaintiff's claim. *Id.* at ¶ 23.

A dental practice sued Hartford and Sentinel Insurance in federal court (S.D.N.Y.) for business interruption losses related to COVID-19 civil authority orders. Plaintiff alleges that the "all-risk" policy provides coverage for Business Interruption, Extra Expense, Contamination, and the actions of civil authorities, and that the policy's virus exclusion is not applicable. The complaint asserts plaintiff has been required to limit operations to emergency procedures only as a result of the actions taken by New York state and local officials and, as a result,

has sustained “a substantial loss of business income and additional expenses covered under the Policy.” Complaint at ¶138.

Thor Equities sued Factory Mutual Insurance Company in federal court (S.D.N.Y.) seeking coverage under the Mutual Corporation Non-Assessable Policy for losses related to COVID-19. Plaintiff asserts it has sustained business interruption losses as a result of the presence of COVID-19 on the scheduled premises and as a result of the actions of civil authorities limiting access to the scheduled premises. Plaintiff seeks coverage under several coverage parts of the policy, including the policy’s “Communicable Disease Response,” “Interruption By Communicable Disease,” “Extra Expense,” “Civil or Military Authority,” and “Time Element” coverage provisions and subparts. Plaintiff alleges Factory Mutual has acknowledged the claim under the Communicable Disease coverage parts, but constructively denied the claim under all other coverage provisions of the policy. Complaint at ¶155.

The owners/operators of several restaurants, sued Zurich American Insurance Company in Ohio state court (Cuyahoga County) seeking coverage under a commercial insurance policy for loss of business income. Plaintiffs assert that government orders relating to COVID-19 issued in Ohio, Pennsylvania, Florida, Michigan, and Indiana have caused Plaintiffs’ restaurants to suffer a complete loss of “business income” under the policy. Complaint at ¶¶22-23. According to the complaint, these orders “result from civil authorities’ response to direct physical loss or damage to property located within one mile from the premises” that sustained a business income loss. The loss or damage was directly caused by a covered cause of loss.” *Id.* at ¶24.

New Super China Buffet, an Illinois-based restaurant, sued Grange Mutual Casualty Company in federal court (S.D. Ohio) seeking coverage under the “all-risk” policy’s Civil Authority coverage provision in connection with COVID-19 losses. Plaintiff alleges it was required to suspend operations due to the civil authority orders and, although the policy contains a virus exclusion, has sustained covered business income losses under the policy.

The Muscogee (Creek) Nation Casinos sued Lexington Insurance Company and several additional insurers in Oklahoma State Court (Muskogee County) seeking coverage for business interruption losses related to COVID-19. The Complaint asserts the insurers provide “all risk” benefits to Plaintiff’s property under the Tribal Property Insurance Program Proposal, including “business interruption, interruption by civil authority, limitations of ingress and egress, and extra expense.” Complaint at ¶18.

A group of restaurants sued Erie Insurance Exchange in Washington, D.C. Superior Court seeking emergency relief and alleging that Erie wrongfully denied some, but not all, of the Plaintiffs’ claims for business interruption due to COVID-19 government closure orders. The Complaint alleges that “because the Plaintiffs’ policies are all substantively the same” Erie “intends to deny the remaining claims on the erroneous theory that the Plaintiffs have not incurred direct physical loss . . . as a result of COVID-19.” The restaurants seek declaratory relief requiring Erie to provide coverage for lost income and extra expenses attributable to the D.C. Mayor’s COVID-19 closure orders.

Two restaurants sued Farmers Group and Mid-Century Insurance in California state court (S.F. Superior) alleging they suffered business income losses when they were forced to shut down by state and local government COVID-19 closure orders. The complaint alleges the government orders were “issued as a result of physical loss

and damage occurring in properties near the Restaurants,” that the policies’ virus exclusions do not apply, and that defendants wrongfully denied plaintiffs’ claims “after less than 48 hours.” Causes of action include breach of contract, bad faith, unfair business practices, and declaratory relief.

A restaurant sued Mitsui Sumitomo Insurance and Hub International Insurance Services in California state court (L.A. County), alleging it suffered business income losses due to Los Angeles COVID-19 government closure orders, and that Mitsui denied its claim in bad faith. The restaurant also sued its broker, HUB International, for its “negligent procurement of the Policy.”

A Florida fitness club sued Arch Insurance Company in federal court (S.D. Fla.) for breach of contract and declaratory relief, alleging it has suffered business income losses due to Florida’s COVID-19 closure orders, and that Arch denied its claim. Plaintiff alleges its “loss of use of the insured property and insured property’s inability to function as intended . . . is a direct physical loss.”

A Connecticut gym sued Hartford Underwriters, the Hartford Financial Services Group, and Sentinel Insurance Company in federal court (D. Conn.) alleging the insurer wrongfully denied its claim for business interruption coverage due to Connecticut’s COVID-19 closure orders, and that the policy’s “virus exclusion does not apply to this pandemic.”

A California trucking school sued Hartford Fire Insurance Company and Commercial Inland Marine Hartford Fire Insurance Company in federal court (D. Conn.) alleging the insurer wrongfully denied its claim for business interruption coverage due to California’s COVID-19 closure orders. The complaint alleges that the policy’s virus exclusion “does not apply to this pandemic,” and seeks solely declaratory relief.

The owner and operator of two California Pilates schools sued The Hartford Financial Services Group and Sentinel Insurance Company in federal court (D. Conn.) alleging the insurer wrongfully “rejected Plaintiff’s business loss and business interruption claims” for losses incurred due to California’s COVID-19 closure orders, and that the insurer contended that “Plaintiffs did not suffer physical damage to its property.”

A Florida Jeweler sued Jewelers Mutual Insurance Company, S.I., in Florida state court (Pinellas County) alleging the insurer wrongfully denied its claim for business losses due to Florida’s COVID-19 closure orders. The jeweler alleges that although the policy contains a virus exclusion, it 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,” here “there is no allegation that the insured property was specifically affected by the COVID-19 virus.”

Business Interruption Class Action Filings:

A hair salon and personal care business sued Hartford Insurance Co. in federal court (E.D. Pa.), individually and on behalf of all others similarly situated alleging claims from declaratory relief and breach of contract. Plaintiff purchased a Business Owner’s Policy from Hartford, which provided business income, extra expense, extended business income, and civil authority coverage. Complaint at ¶11. The Complaint alleges that Hartford denied

coverage for Plaintiff's losses. *Id.* at ¶¶26-30. The class is divided into declaratory relief and breach of contract sub-classes, depending on whether coverage was actually denied. *Id.* at ¶32.

Owners of law offices in Philadelphia sued The Hanover Insurance Group in Pennsylvania state court (Philadelphia County), seeking a declaration that Hanover is responsible to pay business income losses and extra expense related to contamination of the Plaintiff's offices attributable to COVID-19. Complaint at ¶¶ 27-34. The policy at issue allegedly provided business income and extra expense coverage, and contained an exclusion of loss due to viruses or bacteria. *Id.* at ¶¶ 7-10. Plaintiffs allege that as a result of the civil orders and the presence of COVID-19, it has sustained direct physical loss and/or damage to its property by denying the use of the property and causing a necessary suspension of operations. *Id.* at ¶¶ 22-25. According to the Complaint, Hanover denied Plaintiffs' claim for coverage. *Id.* at ¶26.

A retail store owner sued Donegal Mutual Insurance Company in Pennsylvania state court (Allegheny County), individually and on behalf of others similarly situated. The all-risk policy at issue allegedly provided business income, extra expense, and civil authority coverage. Complaint at ¶¶ 6-10. The Complaint alleges that, as a result of the pandemic, it was forced to close to the public, has sustained loss of use of its premises, has seen a dramatic decrease in business, and has been forced to furlough employees. *Id.* at ¶ 24. Plaintiff seeks a declaration that its losses are covered, and breach of contract damages due to Donegal's alleged wrongful denial of coverage. *Id.* at ¶¶ 30-35. The class is defined as "Pennsylvania citizens who have sustained covered losses, damages, and expenses caused by the COVID-19 pandemic and the referenced [state] orders" to whom Donegal issued a policy, and to whom Donegal disclaimed and/or refused to acknowledge coverage. *Id.* at ¶ 38.

A restaurant/bar owner in Seattle sued Oregon Mutual Insurance Company in federal court (W.D. Wash.), individually and on behalf of all other similarly situated members, asserting claims for declaratory relief and breach of contract. The "all risk" policy at issue allegedly provides business income, extended business income, extra expense, civil authority, and ingress or egress coverage. Complaint at ¶ 14, The Complaint alleges that due to COVID-19 and state-ordered closures, Plaintiff was forced to "suspend or dramatically reduce" its operations, and that when a filed a claim for loss, its insurer denied coverage. *Id.* at ¶¶ 8, 30-33. The class consists of policyholders who purchased policies with the same terms from Oregon Mutual, and is divided into declaratory and breach of contract sub-classes depending on whether Oregon Mutual has denied coverage. *Id.* at ¶ 35.

Station 6 filed a class complaint against Lloyd's in federal court (E.D.La.) seeking coverage for business interruption losses related to COVID-19 civil authority orders. The class complaint seeks coverage for Business Income Loss, Extra Expense, Civil Authority, and Extended Business Income coverage. The class complaint asserts a determination must be reached regarding whether coverage under "all-risk" policies issued to class members is available for the suspension of business operations caused by the closure orders issued in response to the coronavirus.

Bourbon Pub Parade filed a class complaint against Nautilus Insurance Company in federal court (E.D.La.) seeking coverage for business interruption losses related to COVID-19 civil authority orders. The class complaint seeks coverage under the standard all-risk commercial property policies for Business Interruption, Civil Authority, Extra Expenses, and Extended Business Income provisions. Plaintiff alleges that, although the policy

contains a virus exclusion, the policy provides coverage for COVID-19 losses because such losses were caused by “precautionary measures taken by the Mayor of New Orleans and the Louisiana Governor to prevent the spread of COVID-19 in the future,” not because coronavirus was found in or on Plaintiff’s insured property.” Complaint at ¶128.

NOLA Group Hotel filed a class complaint against Starr in federal court (E.D.La.) seeking coverage for COVID-19 related business interruption losses. Plaintiff alleges the standard “all-risk” policy provides coverage for Business Income Loss, Extra Expense, Civil Authority, and Extended Business Income coverage. The class complaint asserts a determination must be reached regarding whether the “all-risk” policies issued to class members provide coverage for the suspension of business operations caused by COVID-19 and responding government closure orders.

New Orleans Hamburger & Seafood Company filed a class action complaint against Starr in federal court (E.D.La.) seeking coverage for COVID-19 related business interruption losses. Plaintiff alleges the “all-risk” policy provides for Business Income Loss, Extra Expense, Civil Authority, and Extended Business Income coverage. Plaintiff alleges, on behalf of itself and the putative class, a determination must be reached regarding whether the “all-risk” policy provides coverage for the suspension of business operations caused by COVID-19 and related actions of civil authorities taken in response to the virus.

A radiology practice has filed a class action complaint against Continental Casualty Company in federal court (D. KS) seeking coverage for COVID-19 related business interruption losses. Plaintiff alleges that, despite the fact that it provides medical services, it was required to “limit or suspend many of its business operations” as a result of “stay-home” and similar orders issued by several state governments and federal agencies. Plaintiff alleges these orders acknowledged “COVID-19 causes direct physical damage and loss to property.” Complaint at ¶ 57. The class complaint asserts the “Business Income, Extra Expense, Civil Authority, and/or Sue and Labor” provisions of each class member’s Continental policy provides coverage for COVID-19 losses and related government closure orders. Complaint ¶¶ 75-80.

Promotional Headwear International filed a class action complaint against Cincinnati Insurance Company in federal court (D. KS) seeking class wide damages in connection with business losses sustained due to COVID-19 and arising from state and local stay at home orders. The complaint alleges that the Cincinnati policy is an “all-risk” policy providing coverage of incurred losses under the “Business Income, Civil Authority, Extra Expense, Ingress or Egress and/or Sue and Labor” policy provisions. Complaint at ¶ 68.

3 Squares Diner and Jam Restaurant filed a class action complaint against Cincinnati Insurance Company in U.S. District Court (N.D.Ill.) seeking class wide damages in connection with business losses sustained due to COVID-19 and arising from orders issued by Illinois state and local officials. The class complaint asserts Plaintiffs and members of the putative class were prohibited access to their premises by the civil authority orders issued to reduce the spread of coronavirus. Plaintiffs allege that the standard policy forms utilized in Cincinnati policies provide coverage of the incurred losses under the Business Income, Extra Expense, and Civil Authority provisions.

The Hair Place and Harmar Barbers [filed a class action complaint](#) against IMT Insurance Company in federal court (D. MN) for business interruption losses related to COVID-19 civil authority orders. Plaintiffs allege the “all-risk” policies issued to Plaintiffs and Class Members provide coverage “for direct physical loss of or damage to Covered Property ... [including but not limited to] the actual loss of business income you sustain due to the necessary suspension of your operations.” Complaint at ¶15. In response to state and local orders, Plaintiffs allege they were required to suspend business operations, and have/will continue to sustain Business Income losses. *Id.* at ¶26.

Hair salon Studio 417 [filed a class action complaint](#) against Cincinnati Insurance Company in federal court (W.D. Mo.) seeking class wide damages in connection with business losses sustained due to the COVID-19 pandemic and arising from local, state, and federal stay at home orders. The class complaint alleges that the Cincinnati “all-risk” policies issued to Class Members provide coverage for the incurred losses under the “Business Income, Civil Authority, Extra Expense, Ingress or Egress, and/or Sue and Labor” policy provisions. Plaintiff asserts that Cincinnati denied claims related to COVID-19 on a uniform and class wide basis, without individual bases or investigations.” Complaint at ¶103.

All A’ Bloom, a flower shop, [filed a class action complaint](#) in federal court (W.D. Mo.) against Continental Casualty Company for business interruption losses related to COVID-19 civil authority orders. Plaintiff alleges the presence of the coronavirus and related stay-at-home orders have resulted in the lost physical use of its retail shop as well as supply shortages further impacting business operations. The complaint seeks coverage under the “all-risk” policy’s “Business Income, Extra Expense, Civil Authority, Sue and Labor, and Dependent Properties coverage” provisions. Plaintiff asserts Continental “made the corporate-level business decision to uniformly deny claims related to COVID-19 without individual bases or investigations.” Complaint at ¶94.

Egg Works [filed a class action complaint](#) against U.S. Specialty Insurance and Tokio Marine in federal court (D. NV) for business interruption losses related to COVID-19 .The class complaint seeks coverage under the policy’s Business Interruption and Extra Expense coverage provisions. Although the policy does contain a virus exclusion, Plaintiffs allege the exclusion only applies to losses related to “Avian Influenza Viruses,” and not COVID-19. Complaint at ¶¶38-39.

Egg Works [filed a class action complaint](#) against Acuity in federal court (D. NV) for business interruption losses related to COVID-19 civil authority orders. The class complaint seeks coverage under the all-risk policy. Plaintiffs allege that the policy’s virus exclusion is inapplicable, as they were not aware of the presence of COVID-19 or related infection on its premises at the time the government closure orders went into force. Complaint at ¶41-44.

Several Las Vegas restaurants have [filed a class action complaint](#) against Badger Mutual Insurance Company in federal court (D. NV) for business interruption losses related to COVID-19 civil authority orders. The class complaint seeks coverage under the standard all-risk commercial property policies for Business Income, Civil Authority, and Extra Expenses provisions. Plaintiff alleges that, although the policy contains a virus exclusion, the policy provides coverage for COVID-19 losses because such losses were caused by “precautionary measures

taken by the governments of [Class Members'] respective States to prevent the spread of COVID-19 in the future, not because coronavirus was found in or on Plaintiff's insured property." Complaint at ¶45.

N&S Restaurant [filed a class action complaint](#) against Cumberland Mutual Fire Insurance Co. in federal court (D. NJ) for business interruption losses related to COVID-19 civil authority orders. The complaint seeks coverage under the standard uniform all-risk commercial property policies for Business Income, Civil Authority, and Extra Expenses provisions. Plaintiff alleges that, although the policy contains a virus exclusion, the policy provides coverage for COVID-19 losses because such losses were caused by "precautionary measures taken by [Class Members'] respective States to prevent the spread of COVID-19 in the future, not because coronavirus was found in or on Plaintiff's insured property." Complaint at ¶30.

Benito Ristorante [filed a class action complaint](#) in federal court (D. NJ) against Chubb, seeking coverage for business losses sustained due to COVID-19 and related civil authority orders issued by New York, Connecticut, and New Jersey. Plaintiff alleges, as a result of the stay-at-home orders issued by the majority of states, it has been unable to operate in the ordinary course of business and suffered business losses as a result. Although the all-risk policy contains a virus exclusion, the class complaint asserts the standard uniform all-risk policies issued to plaintiff and class members provide Business Income, Extra Expense, and Civil Authority coverage for losses sustained by class members as a result of the stay-at-home orders.

The owners/operators of several restaurants in New York and Florida [filed a class action complaint](#) against Hartford Fire Ins. Co. and Hartford Financial Group ("Hartford") in federal court (S.D.N.Y.). On behalf of themselves and members of the class, Plaintiffs seek coverage for business losses sustained due to COVID-19 and related government shutdown orders under Hartford's standard uniform all-risk commercial property insurance policies. The class action complaint alleges the all-risk policies at issue provide Business Income, Extra Expense, and Civil Authority coverage, but that Hartford has "denied claims related to COVID-19 on a uniform and class wide basis, without individual basis or investigation." Complaint at ¶87. Plaintiffs also contend the all-risk policy's virus exclusion is not applicable, as the suffered losses were caused by "precautionary measures taken by... States to prevent the spread of COVID-19...not because coronavirus was found in or on Plaintiffs' insured property. *Id.* at ¶57.

Campagnola Restaurant has [filed a class action complaint](#) against Lancer Insurance Company in federal court (S.D.N.Y.) on behalf of itself and others similarly situated for denying claims for losses resulting from the COVID-19 pandemic and related government orders. The Complaint alleges that the standard uniform "all risk" policy at issue provides income protection, extra expense, and civil authority coverage, but that the insurer has "denied claims related to COVID-19 on a uniform and class wide basis, without individual basis or investigation." Complaint at ¶87. Plaintiff contends the policy's virus exclusion is not applicable, as the suffered losses were caused by "precautionary measures taken by the governments to prevent the spread of COVID-19—not because coronavirus was found in or on plaintiff's insured property. *Id.* at ¶42.

Food For Thought Caterers [filed a class action lawsuit](#) against Hartford and Sentinel Insurance in federal court (S.D.N.Y.) for business interruption losses related to COVID-19 civil authority orders. Plaintiff alleges that the policy provides coverage for Business Interruption, Extra Expense, and Civil Authority orders and does not

include a virus exclusion. According to the Complaint, the policy's pollution exclusion is not applicable because COVID-19 is not a Pollutant or Contaminant, nor were Plaintiff's or other Class members' losses caused directly or indirectly by any of the actions in the exclusion.

The Taste of Belgium restaurant filed a class action complaint against Cincinnati Insurance Company in federal court (S.D. Ohio) seeking coverage for COVID-19 losses and related orders issued by the Ohio Department of Health and the Governor of Ohio. Plaintiff alleges it was denied full access to and use of the insured premises due to the orders and has sustained covered business income losses under the policy's Business Income, Extended Business Income, Extra Expense, and Civil Authority provisions.

Two San Francisco restaurants filed a class action lawsuit against Oregon Mutual Insurance Company in federal court (N.D. Cal.) on behalf of all those who own an interest in a business that serves food and had their business income claims denied by Oregon Mutual. The restaurants allege that the insurer wrongfully denied their claims for business income losses due to government COVID-19 closure orders, and that due to the "speed with which Defendant denied Plaintiffs' claims . . . Defendant could not have engaged in a good faith or reasonable investigation of the claims."

A restaurant filed a class action lawsuit against the Hartford Financial Services Group, Inc. and Sentinel Insurance Company in federal court (D.D.C.) after the insurer allegedly denied its claim for business interruption coverage for loss of income due to D.C. COVID-19 government closure orders. The complaint alleges that the insurer denied its claim "without any investigation or inquiry," and that defendants "unilaterally amend[ed] the policy to exclude coverage for business income under the current circumstances."

A marketing company has filed a class action lawsuit against Transportation Insurance Company in federal court (N.D. Cal.), alleging that Transportation wrongfully denied its claim for coverage under the business income, extra expense, and civil authority provisions of its policy. The company asserts that it has suffered business income losses due to California's COVID-19 closure orders, and that "[d]efendant's denial of Plaintiff's claim is part of a common plan or business policy that applies to all Class Members. Defendant will not pay any claims related to COVID-19, regardless of the merits of these claims."

The owner of a salon and medical spa filed a class action lawsuit in federal court (S.D. Fla.) against HDI Global Specialty SE, Axis Specialty Europe SE, and Underwriters at Lloyd's London, alleging the insurers wrongfully denied the salon's claims for business interruption due to government COVID-19 closure orders. The salon alleges that "Defendants have failed to pay for similar losses and expenses by at least thousands of other insureds holding policies that are, in all material respects, identical."

A Florida restaurant brought a class action lawsuit against Certain Underwriters at Lloyd's London for declaratory relief and "anticipated breach of an insurance policy by denying business interruption coverage and extra expense coverage." The restaurant alleges class members suffered a "direct physical loss of their insured property due to the national COVID-19 emergency and lock down of the economy and resulting civil authority orders."

The owners of a group of ice cream restaurants filed a class action against Scottsdale Insurance Company in federal court (S.D. Fla.) for declaratory relief and “anticipatory breach of all-risk commercial property insurance policies issued by Defendant.” Plaintiffs allege they have suffered financial losses due to COVID-19 government closure orders, and that Scottsdale “has no intention of providing any coverage to Plaintiffs under their policies due to any business income loss or expenses incurred . . . due to the National COVID-19 emergency and resulting civil authority orders.”

A California sports bar and grill filed a class action lawsuit against Farmer Insurance Company and Truck Insurance Exchange in federal court (C.D. Cal.) alleging the insurer wrongfully denied its claim for business income losses due to California COVID-19 closure orders. The sports bar alleges that although the policy has a virus exclusion, it “does not exclude plaintiff’s losses because the efficient proximate cause of losses was the precautionary measures taken by its state to prevent the spread of COVID-19 in the future, not because coronavirus was found on or around plaintiff’s insured property.”

A Florida eyewear and sunglasses shop filed a class action lawsuit against State Farm Mutual Automobile Insurance Company and State Farm Florida Insurance Company in federal court (S.D. Fla.) alleging that its claims for business interruption losses due to Florida’s COVID-19 government closure orders were wrongfully denied. Plaintiff contends that although the policy at issue includes a virus exclusion, it does not apply because “Plaintiff’s loss here was not caused by the presence of SARS-CoV-2, or an outbreak of COV-19 (*sic*) on its premises. Rather, Plaintiff’s loss results directly from social distancing/stay-at-home orders, which have forced Plaintiff to suspend its operations.”

COVID-19 Financial Losses to Insurers:

Munich Re reports a 65% drop in profits for Q1, reporting a total of €800m COVID-19 related losses in the quarter, “mostly due to losses stemming from the cancellation or postponement of major events on account of the coronavirus pandemic.” The reinsurer reported that it expects to receive an excess of €1 billion in claims for cancelled or postponed events due to COVID-19.

AIG has estimated it will pay \$272 million in COVID-19 related losses in Q1 2020, noting that losses from the pandemic will be limited due to the presence of a virus-related loss exclusion in the “overwhelming majority” of issued policies. The insurer’s officers have stated “[w]e believe COVID-19 will be the single largest cat loss the industry has ever seen,” and noted “going forward, COVID-related losses will impact all aspects of underwriting insurance.” Citing market conditions, AIG plans to place its internal insurtech startup (Blackboard U.S. Holding Inc.) into runoff.

U.K. and Europe:

The Financial Conduct Authority (FCA) is seeking clarity from the courts regarding the wording of business interruption policies and whether coverage for COVID-19 pandemic related losses is available. The FCA is reported to be seeking judicial review of the policies as soon as July.

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

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