

BUSINESS INSURANCE.

Broker seeks dismissal of restaurant's COVID-19 lawsuit

Posted On: Jun. 5, 2020 2:39 PM CST

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The insurance broker for a Kansas City, Missouri, barbecue chain asked a court this week to throw out a negligence claim brought by the company alleging the broker was in part responsible for an insurer's denial of coverage for coronavirus-related business interruption losses.

In a motion to dismiss and related filings, Lovell Sagebrush Insurance Group Inc. argues that it could not have foreseen a pandemic when it placed coverage last year for Ja-Del Inc., which operates Jack Stack Barbecue Restaurants, and that it is not required to predict "every possible gap in insurance coverage."



Ja-Del [sued](#) its insurer, retail broker and wholesale broker in *Ja-Del Inc. v. Zurich American Insurance Co., Lovell Sagebrush Insurance Group Inc. and R-T Specialty LLC*, filed in state court in Kansas City in April.

Like many other lawsuits filed by restaurants across the country, Ja-Del argued it had lost income due to government-ordered shutdowns during the pandemic and coverage was triggered under its commercial insurance policy.

Unlike most of the other suits, however, the restaurant also targeted its brokers arguing that they communicated inaccurate information about the coverage and did not procure wide-enough coverage.

In court documents filed on Monday, Lee's Summit, Missouri-based Lovell Sagebrush argues that "Missouri does not require insurance brokers to predict pandemics and advise customers to secure coverage for resulting business interruption losses unless the customer specifically seeks that type of information."

In addition, brokers don't have a duty to advise a policyholder of the amount of insurance needed to cover all potential losses, court papers say.

"The general duty of good faith and reasonable diligence that LSIG owes Ja-Del does not require LSIG to speculate upon and predict to Ja-Del every potential circumstance in which Zurich might deny a claim. Nor does this duty require LSIG to advise Ja-Del what coverage could exist or predict every possible gap in coverage under the policy," court papers say.

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