



HURWITZ & FINE, P.C.

ATTORNEYS AT LAW

COVID-19 Coverage Suits

Case Name: French Laundry v. The Hartford & Karen Relucio (Napa County Health Officer)

Venue: California, Napa County

Pltf Atty: Dickenson, Peatman & Fogarty (Napa, Calif.)
Gauthier Murphy & Houghtaling (Metaire, LA)

Claim: Fancy restaurants forced to close b/c of order of Civil Authority by county health commissioner

Coverage: All risk policy; covered cause of loss means direct loss or direct physical damage (§16); “property Choice Deluxe Form specifically extends coverage to direct physical loss or damage caused by virus” (§17); the deadly virus physically infects and stays on surfaces of objects or materials, “fomites,” for up to twenty-eight days (§20); **“The Order specifically states that it is being issued on evidence of physical damage to property...in the immediate area of the Insured Properties.”** (§23)

Suspension: Order has caused a shutdown; no access to insured properties; acknowledges that it could be open for takeout and delivery

Relief: DJ



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ATTORNEYS AT LAW

Case Name: Cajun Conti, LLC et al v. Lloyds, Gov. Edwards

Venue: Louisiana, Orleans Parish

Pltf Atty: Gauthier Murphy & Houghtaling (Metairie, LA)
Davillier Law Group (New Orleans, LA)

Claim: Well-known French Quarter restaurant forced to close b/c of order of Civil Authority by Gov.

Coverage: All risk policy; covered cause of loss means direct loss or direct physical damage (§14); no virus exclusion (§15); “the deadly virus physically infects and stays on surfaces of objects or materials, “fomites,” for up to twenty-eight days” (§21); contamination is a direct physical loss (§23); unclear if restaurant is exempt; expect more restrictive orders;

Suspension: N/A (No suspension indicated).

Relief: DJ



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ATTORNEYS AT LAW

Case Name: Chickasaw Nation Department of Commerce v. Lexington Ins. Co. et al.

Venue: Oklahoma, Pontotoc County

Pltf Atty: Whitten Burrage Law Firm (Oklahoma City, OK)

Claim: Commercial business and service losses due to the United States becoming infected by COVID-19.

Coverage: All risk policy; include business interruption, interruption by civil authority, limitations of ingress and egress, and extra expense. (§15)

Suspension: Speculative

Relief: DJ



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ATTORNEYS AT LAW

Case Name: Barbara Lane Snowden d/b/a Hair Goals Club v. Twin City Fire Ins. Co.

Venue: Texas, Harris County

Pltf Atty: The Loyd Law Firm, P.L.L.C. (San Antonio, Texas)

Claim: Salon closed due to Harris County Order; unfair settlement practices (misrepresentation, prompt payment)

Coverage: Terms not alleged

Suspension: Harris County Order due to Covid-19 outbreak.

Relief: DJ, damages, statutory bad faith, common law bad faith, penalty interest, attorney's fees



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ATTORNEYS AT LAW

Case Name: Big Onion Tavern Group, LLC et al. v. Society Insurance, Inc.

Venue: USDC, ND of Ill.

Pltf Atty: King & Spalding LLP (Chicago, IL & Atlanta, GA [*pro hoc vice*])

Claim: Restaurants and movie theatre owners claim losses due to government Closure Orders; bad faith for blanket denials “often within hours of receiving Plaintiffs’ claims—without first conducting . . . a ‘reasonable investigation based on all available information’”; prospective denial b/c virus is not physical loss

Coverage: All risk policy (¶37); lack of virus exclusion = coverage for virus (¶¶9-11, 38); “suspension” defined as “(1) ‘the partial slowdown or complete cessation of your business activities’” (¶40); “Civil Authority” coverage, covering “the loss of Business Income and necessary Extra Expense sustained by Plaintiffs ‘caused by action of civil authority that prohibits access’ to Plaintiffs’ insured premises.” (¶44, *accord* ¶¶ 2, 5); Civil Authority triggered when “non-excluded cause results in ‘damage to property other than property’ at the Plaintiffs’ premises, and is intended to cover losses resulting from governmental actions ‘taken in response to dangerous physical conditions.’” (¶45); physical damage (¶47)

Suspension: Halt to ordinary operations due to Executive Order(s) 2020-07 and 2020-10 of Illinois Governor Pritzker first closing all restaurants, bars, and movie theaters to the public and then all “non-essential businesses”

Relief: DJ, breach of contract, statutory bad faith



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ATTORNEYS AT LAW

Case Name: Outerlands, Inc. v. Truck Ins. Exch., and DOES 1 through 50

Venue: California, San Francisco County

Pltf Atty: Sanjiv N. Singh (San Mateo, CA)
Indrajana Law Group (San Mateo, CA).

Claim: Owner of a “cherished restaurant of the Sunset District” alleges bad faith denial of business income loss claim due to stay-at-home order. Upon initial telephone call with Defendant, claims representative indicated likelihood that claim would be denied, seemingly at instruction of upper management (§25); disclaimer within three days via email “in a formulaic, cut-and-paste fashion” (§27).

Coverage: Coverage “for lost business income which occurs during the policy period” (§10); “additional coverages including but not limited to loss of business income due to Civil Authority or civil ordinances.” (§11); actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss of or damage to property, other than at the described premises, caused by or resulting from any Covered Cause of Loss.” (§ 12); property damage from formites adhering to surfaces (§16);

Suspension: Health Department shelter in place (March 17-April 7); California stay at home order, March 19, 2020. Kept doors open despite substantial revenue reductions

Relief: Breach of contract, bad faith, declaratory relief, Cal. §17200



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ATTORNEYS AT LAW

Case Name: Billy Goat Tavern I, Inc. et al. v. Society Insurance (Illinois Class Action)

Venue: USDC, ND of Ill.

Pltf Atty: Duncan Law Group, LLC (Chicago, IL)

Claim: Restaurant Class seeks coverage for business income loss b/c Civil Authority Order limiting to take-out; bad faith denial of all claims for lack of Direct Physical Loss

Coverage: all risk (§27); “Businessowners Special Property Coverage Form”; agree to “pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.” (§32); “Covered Causes of Loss” means “Direct Physical Loss unless the loss is excluded” (§33); no definition of “direct physical loss” (§35); agreed to “pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to covered property at the described premises.” (§36); no virus exclusion (§37)

Suspension: Restaurants limited to take-out only; loss of dine-in revenue

Relief: DJ, breach of contract, punitive damages [statutory bad faith damages are capped at \$60,000 Illinois, but the first-party bad faith statute is not pleaded.]



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ATTORNEYS AT LAW

Case Name: Prime Time Sports Grill, Inc. v. Lloyd's

Venue: USDC, MD of Fla.

Pltf Atty: Duncan Law Group, LLC (Chicago, IL)

Claim: Restaurants forced to close b/c of order of Civil Authority by Governor

Coverage: All risks; "Loss of business Income and operating expenses is specifically covered under the policy, and governmental suspension as a result of COVID-19 is not specifically excluded." (§3); "Commercial Property CP 10 30 10 12"; DENIAL LETTER: "There is no evidence that your business operations have been suspended because of a direct physical loss"; "In addition, Business Income coverage is provided when you sustain a loss due to 'Civil Authority.' However, this coverage is only afforded when there has been direct physical damage to your property or to an adjacent property (property within one mile of your property)"; "There is no evidence that there has been physical damage to your property or to an adjacent property according to the Civil Authority directed by your government." (Exh. 2).

Suspension: Closed restaurant following stay-at home order

Relief: DJ



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ATTORNEYS AT LAW

Case Name: Indiana Repertory Theatre, Inc. v. The Cincinnati Casualty Co.

Venue: Indiana, Marion County

Pltf Atty: Plews Shadley Racher & Braun LLP (Indianapolis, IN)

Claim: Largest professional nonprofit theatre in Indiana seeks coverage for business income loss following order suspending gatherings of more than 250 people, then 50 people, then closing theaters, necessitating cancelling of season

Coverage: all risks coverage (§19); should be coverage for loss sustained due to the necessary suspension of operations; DISCLAIMER “there must be direct physical loss or damage to Covered Property caused by a covered cause of loss. . . . Direct physical loss or damage generally means a physical effect on Covered Property, such as a deformation, permanent change in physical appearance or other manifestation of a physical effect...the pandemic, without more, is not direct physical loss to property” (§22); policy does not define direct physical loss or damage (§23); complete loss of use is a ‘direct physical loss.’ (§23); no virus exclusion (§24);

Suspension: Various Civil Orders force cancelling of theater season

Relief: DJ



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ATTORNEYS AT LAW

Case Name: SCGM, Inc. et al. v. Lloyd's

Venue: USDC, SD of Tex.

Pltf Atty: Hawash Cicack & Gaston LLP (Houston, Texas)

Claim: Movie theatre and restaurant chain seek coverage under "Pandemic Event Endorsement" for business losses due to constructive closure following Executive Order restricting gatherings to less than ten people; anticipatory breach of contract, and bad faith

Coverage: Stand-alone Pandemic Event Endorsement; "Pandemic Event" defined as "the announcement by a Public Health Authority that a specific Covered Location is being closed as a result of an Epidemic declared by the [CDC] or [WHO]." (§ 8); Underwriters advisory to brokers reads: "As a reminder, there is no coverage... under the Pandemic Event Endorsement as [COVID-19] is not a named disease on that endorsement." (§21); "Covered Disease" includes "SARS-CoV", and its "mutations, or variations" (§23);

Suspension: March 17 guidance results in voluntary closure; March 19 Executive Order issued by Texas Governor Abbott restricts gatherings to less than ten people; Texas Department of State Health Services proclamation of March 19.

Relief: DJ, common law bad faith, statutory bad faith, punitive damages



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ATTORNEYS AT LAW

Case Name: Mace Marine Inc. v. Tokio Marine Specialty Ins. Co.

Venue: Florida, Monroe County

Pltf Atty: The Landau Law Group, P.A. (Boca Raton, FL)
Law Offices Of Thayer A. Musa (Miami, FL)

Claim: Dive shop seeks coverage for loss of business income b/c of order of civil authority closing hotel, RV, and vacation rental properties and other travel restrictions prohibited scuba diving enthusiasts from reaching insured; later order closed dive shop as a non-essential business; extra expense to sanitize equipment and property; bad faith as set forth in the Civil Remedy Notice (boilerplate)

Coverage: all risks coverage (§38); Policy contains coverage for acts of civil authority, business income losses and extra expense (§§20, 33); “the presence or danger of COVID-19 on property renders that property unusable and non-functioning until such time as the property is sanitized.” (§28); pandemic is not excluded type of risk (§39)

Suspension: Emergency Directive prevented customer’s ingress to the insured property; later order required closure of non-essential dive shop

Relief: DJ, breach of contract, statutory bad faith



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ATTORNEYS AT LAW

Case Name: Sandy Point Dental PC v. The Cincinnati Insurance Company et al.

Venue: USDC, ND of Ill.

Pltf Atty: Charles Aaron Silverman PC (Skokie, IL)

Claim: Dentist seeks loss of business income for suspension of non-emergency treatment (95%) b/c of Civil Order due to COVID-19

Coverage: Civil Authority: We will pay the actual loss of "Business Income" you sustain and "Extra Expense" you incur caused by action of civil authority that prohibits access to the "premises" due to direct physical "loss" to property, other than at the "premises", caused by or resulting from any Covered Cause of Loss."; no virus exclusion; Illinois law holds that the presence of a dangerous substance constitutes physical loss or damage (§16); DISCLAIMER: "From a Civil Authority cause of loss perspective, there must be direct physical damage from a covered proper cause of loss that eliminates access to your property."

Suspension: Executive Order "left dental offices able to do emergency work but not routine work." Plaintiff has been forced to halt ordinary operations and is effectively shut down, resulting in substantial lost revenues

Relief: DJ, breach of contract, statutory bad faith



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ATTORNEYS AT LAW

Case Name: Sharecropper LLC v. Farmers Ins. Exchange, Inc.

Venue: Alabama, Jefferson County

Pltf Atty: Wallace Jordan Ratliff & Brandt, LLC (Birmingham, AL)

Claim: Top ten best restaurant forced to close to dine-in customers b/c of order of Civil Authority; insured did not offer deliver or take-out service but created a curb-side pickup process

Coverage: all risk policy providing coverage for direct physical loss of or damage to Covered Property not expressly excluded (§21); “Business Owners Special Property Coverage Form” “will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.” (§21); DISCLAIMER: no direct physical loss or damage to property; order of civil authority not due to direct physical loss or damage to other property; virus exclusion.

Suspension: Restaurant limited to curb-side pickup

Relief: DJ



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ATTORNEYS AT LAW

Case Name: Proper Ventures, LLCs v. Seneca Insurance Company, Inc. and District of Columbia

Venue: District of Columbia

Pltf Atty: The Veritas Law Firm (Washington, D.C.)

Claim: Elevated sports bar in downtown D.C. seeks coverage for loss of business income due to the Order of the District of Columbia prohibiting table seating or service.

Coverage: "Business Income (and Extra Expense) Coverage Form. (CP 00 30 10 12) (§14); "suspension" defined as "The partial or complete cessation of your business activities" (§18); "civil authority" coverage – "caused by action of civil authority that prohibits access to the described premises" due to damage creating dangerous physical condition (§22); contains virus exclusion (§23); DISCLAIMER: (a) no direct physical loss; (b) no Civil Authority was available because access to the business was not prevented due to any nearby property damage, and (c) virus exclusion (§34).

Suspension: Order prohibiting table seating at any restaurant or tavern

Relief: DJ



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ATTORNEYS AT LAW

Case Name: GERAGOS & GERAGOS, APC v. THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT and Mayor Garcetti

Venue: California, Los Angeles County

Pltf Atty: Dhillon Law Group Inc. (San Francisco, CA)

Claim: World-renowned law office seeks coverage for business losses sustained when access to the scheduled premises was specifically prohibited by order of Civil Authority.

Coverage: all risk policy (§12); covered cause of loss is “direct physical loss or direct physical damage unless the loss is specifically excluded or limited in the Policy” (§12); “Civil Authority Coverage Section extends coverage to direct physical loss or damage that results in a covered cause of loss to the Property in the immediate area of the ‘scheduled premises’.” (§13); “the World Health Organization, has recognized that the Coronavirus is a cause of real physical loss and damage” (§15); **Executive Order “specifically referenced that it was being issued based on the dire risks of exposure with the contraction of COVID-19 and evidence of physical damage to property.”** (§17);

Suspension: Plaintiff is “technically exempted as an “essential business” under the Order” and access to premises is only “greatly limited” (§18).

Relief: DJ



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ATTORNEYS AT LAW

Case Name: LH Dinning LLC v. Admiral Indemnity Co.

Venue: USDC, ED Pa

Pltf Atty: Golomb & Honik, PC (Philadelphia, PA)
Levin Sedran & Berman LLP (Philadelphia, PA)

Claim: 36-seat restaurant forced to close b/c of order of Civil Authority

Coverage: All risk policy; covered cause of loss means direct loss or direct physical damage (§17); virus exclusion allegedly does not apply to BI claims (§19); scientific comm’y recognized that COVID-19 is a cause of real physical loss and damage; contamination is direct physical loss (§20); formites stay on surfaces for up to 28 days (§23); orders by Gov and Mayor (“COVID-19 may remain viable for hours to days on surfaces...”);

Suspension: Orders have caused a “substantial loss of business”

Relief: DJ



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ATTORNEYS AT LAW

Case Name: 2420 Honolulu Ave. LLC v. Travelers and Mayor Garcetti

Venue: California, Los Angeles County

Pltf Atty: Geragos & Geragos (Los Angeles, Calif.)
Dhillon Law Group (San Francisco, Calif.)

Claim: Loss of commercial rents at restaurant b/c tenant abandonment of premises
b/c order of Civil Authority

Coverage: All risk policy; covered cause of loss means direct loss or direct physical
damage; actual loss of business income when access to the scheduled
premises is specifically prohibited by order of Civil Authority as the direct
result of a covered cause of loss to property in the immediate area; COVID-
19 has physically impacted property and physical spaces around the world
and the right to gather and utilize retail business locations; formites stay on
surfaces for up to 28 days; scientific comm'y recognized that COVID-19 is
a cause of real physical loss and damage; local and state-wide stay-at home
and non-essential business closing orders

Suspension: Loss of rents stemming from tenants' cessation of use of premises

Relief: DJ



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ATTORNEYS AT LAW

Case Name: 837 Foothill Blvd, LLC v. Travelers and Mayor Garcetti

Venue: California, Los Angeles County

Pltf Atty: Geragos & Geragos (Los Angeles, Calif.)
Dhillon Law Group (San Francisco, Calif.)

Claim: Loss of commercial rents at tenancy b/c of cessation of use of premises due to order of Civil Authority

Coverage: All risk policy; covered cause of loss means direct loss or direct physical damage; actual loss of business income when access to the scheduled premises is specifically prohibited by order of Civil Authority as the direct result of a covered cause of loss to property in the immediate area; COVID-19 has physically impacted property and physical spaces around the world and the right to gather and utilize retail business locations; formites stay on surfaces for up to 28 days; scientific comm'y recognized that COVID-19 is a cause of real physical loss and damage; local and state-wide stay-at home and non-essential business closing orders

Suspension: Loss of rents stemming from tenants' cessation of use of premises

Relief: DJ



HURWITZ & FINE, P.C.

ATTORNEYS AT LAW

Case Name: Mark J. Geragos v. Travelers and Mayor Garcetti

Venue: California, Los Angeles County

Pltf Atty: Geragos & Geragos (Los Angeles, Calif.)
Dhillon Law Group (San Francisco, Calif.)

Claim: Loss of commercial rents at bookstore and law office b/c tenant cannot access premises b/c order of Civil Authority

Coverage: All risk policy; covered cause of loss means direct loss or direct physical damage; actual loss of business income when access to the scheduled premises is specifically prohibited by order of Civil Authority as the direct result of a covered cause of loss to property in the immediate area; COVID-19 has physically impacted property and physical spaces around the world and the right to gather and utilize retail business locations; fomites stay on surfaces for up to 28 days; scientific comm'y recognized that COVID-19 is a cause of real physical loss and damage; local and state-wide stay-at home and non-essential business closing orders

Suspension: Loss of rents stemming from tenants' cessation of use of premises

Relief: DJ



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ATTORNEYS AT LAW

Case Name: El Novillo Restaurant et ano v. Lloyd's (National Class Action)

Venue: USDC SD Fla

Pltf Atty: Kozyak Tropin & Throckmorton LLP (Coral Gables, FL)

Claim: Restaurant lost business following social distancing recommendations from WHO, CDC, CTF, and 49 state-wide restaurant closing orders (other than take-out/delivery)

Coverage: All risk policy CP 00 30 BI form; access to premises prohibited because of direct loss or direct physical damage to property by order of civil authority restricting access to property (§5); pandemic and the corresponding response by civil authorities to stop the spread of the outbreak triggers coverage, has caused physical property loss and damage to the insured property (§6, 34); many state departments of insurance have issued advisories to business owners that COVID-19 is not an insured peril and there will be no coverage for business interruption. This is disinformation being published to discourage business owners from filing claims (§50)

Suspension: Order restricting operating times; later order closing all restaurants other than delivery

Relief: National class certification; DJ; anticipatory breach of contract;