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Insights

Update on COVID-19 and Insurance Coverage

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Business clients are inquiring whether their existing insurance policies will provide coverage for losses resulting from the interruption of their businesses by the coronavirus and the governmental orders which have followed, often closing their doors. While there isn't a one-size-fits-all answer to the questions, we believe coverage may be available under their business property policies and that less obvious coverages may also be triggered by their losses. While the ultimate answer to the coverage question depends on the policy language and how courts have interpreted that language, those courts have often decided that coverage exists where the insurance carriers have denied it.

We provided some earlier guidance on business interruption insurance coverage and that insurance carriers may seek to deny coverage for losses relating to coronavirus, arguing that the language of the policy requires a "direct physical loss" to the business premises. Some courts, however, have disagreed with this interpretation, particularly where the property policy is an "all risk" policy – where coverage is provided for "all risks of physical loss or damage."

In addition to business interruption coverage and depending on your circumstances, many different policies or provisions may be triggered: civil authority coverage (government shutdowns); contingent business interruption (affected suppliers or customers impacted); event cancellation policies or provisions; environmental pollution policies; ingress and egress coverages (where access to the business is hampered or prevented); extra expense coverages; and even general liability policies.

Importantly, there are two overriding principles which will assist any business which pursues a claim. First, in a close call, courts tend to side with the business insured rather than the insurance carrier. Second, policy provisions providing for coverage are interpreted broadly; exclusions are interpreted narrowly. These principles often are the foundation for a successful insurance claim.

Related Attorneys

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Finally, do not rely upon your insurance carrier's or agent's opinion about whether you have a claim. They may have a vested interest in that opinion and are likely unfamiliar with the cases interpreting policies in favor of business insureds. Rely upon your lawyer.