



News

Ronald Kammer Explains Why Policyholders Seeking Coverage for Business Losses Resulting from COVID-19 Face an 'Uphill Battle'

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Ronald Kammer, Hinshaw partner and co-chair of the firm's global insurance services practice, recently published an article in *Daily Business Review* titled "Does Insurance Cover Business Losses Resulting from COVID-19." In the article, Ron considers the prospects for policyholders seeking coverage for business interruption losses related to the COVID-19 pandemic under their property insurance policies. He suggests they face an uphill battle in meeting the burden of proof necessary to secure coverage.

Ron notes that for business interruption coverage to exist under the typical policy, the policyholder must establish there was a direct physical loss to the building, and that courts have typically held that a direct physical loss contemplates an actual change to the insured property requiring that repairs be made and that policyholders seeking coverage for COVID-19 claims will have to prove the coronavirus caused a distinct, demonstrable, physical alteration of the property, as opposed to a detrimental economic impact unaccompanied by such a loss to that property.

He also reviews three exclusions that may come into play, should the policyholder be able to establish a direct physical loss: the Fungi and Bacteria Exclusion; the Pollution Exclusion; and the Virus or Bacteria Exclusion.

Finally, Ron notes that the issues could be made moot by legislative action. He points to bills in several states that would retroactively prevent the application of these policy provisions, along with additional efforts at the national level. He concludes that whether the insurance industry will be forced to pay for COVID-19 claims they feel are not covered, and for which no premium was paid, remains to be seen.

[Read the article on the *Daily Business Review* website](#) (subscription required)

"Does Insurance Cover Business Losses Resulting from COVID-19" was published by *Daily Business Review*, March 31, 2020.

See also, [Insurers Must Be Proactive to Comply With Federal, State, and Local COVID-19-Related Laws and Regulations to Limit Potential Governmental Overreach](#).

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