



## News

### Scott Seaman Rebutts Policyholder Attorneys' Attack on Couch on Insurance Treatise: "It's a Straw Man Argument"

September 21, 2021

Hinshaw partner Scott Seaman—co-chair of the firm's global insurance services practice group—recently spoke to Shawn Rice of *Law360* as part of an article titled "Policyholder Attys Decry Treatise's Impact on Pandemic Suits."

Seaman reacted to arguments made by policyholder attorneys in a soon-to-be published law journal article that seek to rebut Section 148:46 of the Couch on Insurance treatise, which describes as a "widely held" majority rule the notion that physical loss or damage in an insurance claim requires a "distinct, demonstrable, physical alteration of property." Courts across the country have cited this rule in rulings that resulted in the dismissal of business interruption claims related to losses stemming from COVID-19.

Seaman called the policyholder attorneys' position "a creative but misguided attempt to set up a false straw man argument and try to shoot it down." The article itself is "selective and one-sided in its use and discussion of case law," he added. Seaman also noted that Couch is a secondary source, and most courts have simply considered applicable case law precedent: "There simply has not been any ... conspiracy of judicial abdication, circularity, selectivity, or stupidity as suggested by the article."

[Read the full article on the \*Law360\* website](#) (*subscription required*)

"Policyholder Attys Decry Treatise's Impact on Pandemic Suits" was published by *Law360*, September 17, 2021

#### Attorneys

Scott M. Seaman

#### Offices

Chicago