



News

Scott Seaman Discusses Why a Rare Policyholder Victory in North Carolina Likely Won't Shift Insurers' Winning Streak in COVID-19 Business Interruption Litigation

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In a recent *Law360 Insurance Authority* article, Scott Seaman, a partner at Hinshaw's Insurance Services Group in Chicago, discussed the significance of a North Carolina Supreme Court ruling that provided policyholders a rare win on the issue of coverage for coronavirus-related business losses.

Seaman noted the decision is unlikely to change the overall trend favoring insurers in pandemic-related coverage litigation. He pointed out that many of these business interruption cases face restraints due to statutes of limitations and contamination exclusions, and he suggested future policyholder successes will be rare and dependent on state interpretations of insurance law.

Law360 Insurance Authority excerpt:

Scott Seaman, a carrier-side attorney with Hinshaw & Culbertson LLP, noted that insurers have still won the overwhelming majority of pandemic coverage suits, including high court decisions this year in Alaska, California, New Jersey and New York.

North Carolina's decision could, at the most, help a limited number of policyholders under all-risk policies with pending cases where North Carolina law applies and the policy language is the same, he said, and won't change the overall litigation trend.

"Realistically, ... there are not many such cases left, future cases likely would be barred by the suit limitations period in most first-party policies, and as the *Cato* companion case illustrates it will not help policyholders where there is a contamination or other applicable exclusion," Seaman told *Law360* in written comments.

He said the occasional policyholder victory can't be ruled out given that each state's high court has the final word on coverage, and insurance coverage law is state-based.

Seaman also said that the North Carolina court's decision was unlikely to persuade courts in other states because it ignored the weight of authority contravening the decision. More importantly, he added, the decision belies the historical, time-tested application of the requirement of direct physical

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loss for insurance coverage.

[Read the full article](#) (*subscription may be required*).

"[Policyholders See Notable But Limited Win In NC Virus Suit](#)" was published by *Law360 Insurance Authority* on December 19, 2024.