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Fighting for Our Clients: Looking Ahead to Post Pandemic Insurance Coverage Litigation

Nearly every disaster sees its fair share of associated post-mortem insurance coverage litigation. The COVID-19 pandemic is no exception. The wave of litigation already has begun and will follow suit in New York once the courts allow attorneys to file new cases.

It is an unfortunate reality that insurance companies will try to deny claims whenever possible. But there are concrete steps business owners can take to resolve coverage issues amicably pre-litigation, or if necessary, to lay the groundwork for successful coverage litigation. It is critical to rely on experienced and aggressive legal counsel throughout this process. While insurance coverage litigation rarely goes to trial, a broad legal skill set is key to successful resolution: sophisticated policy analysis, aggressive negotiation, exceptional written work product, a willingness to go to trial if necessary, and deep familiarity with both the federal and state courts.

With your attorney, we suggest following these pre-litigation steps:

- Determine whether your policy potentially could cover business interruption and whether any explicit exclusions might bar your claim. If you do not have a complete copy of your policy, your insurance broker will have one for you. Each policy is different so identifying potential coverage requires a careful review of complex policy provisions. A good rule of thumb is to read coverage broadly and exclusions narrowly.
- If there is a chance you might be covered, submit a claim. Make sure to comply with the notice requirements in your policy. If you do not submit a claim, there is no chance you will be covered.
- Gather evidentiary support – lost income, additional expenses, etc., – and keep the file up to date to expedite payment if your claim is approved.

If an insurance company continues to deny your claim, consider hiring an attorney. Most insurance coverage disputes are resolved during the early stages in the litigation process, without expensive discovery. While there are no guarantees how litigation will resolve, strong written advocacy and the threat of a public trial can be powerful weapons in your pursuit of business interruption compensation.

The attorneys at Yankwitt LLP know how important it is to partner with a lawyer who can help you through this incredibly emotional time. We are available to advise on potential insurance coverage issues, negotiate with your insurer and litigate your coverage claims. As always, you can reach us via email and at [914-686-1500](tel:914-686-1500).

Wishing everyone well!