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Proactive Through the Pause: Looking Ahead to Post Pandemic Insurance Coverage Litigation

In the next part of our series on proactive and practical steps that small businesses can take to improve business operations and productivity, Yankwitt LLP examines another expected wave of litigation – insurance coverage for business interruption losses – arising out of the COVID-19 shutdown. Taking the following steps now can mean the difference between a viable coverage claim and a missed opportunity when the New York courts reopen and lawsuits commence.

- Determine whether your policy could potentially cover a business interruption and whether any explicit exclusions might bar your claim. If you do not have a complete copy of your policy, ask your broker for one. Each policy is different so identifying potential coverage requires a careful review of complex policy provisions. We suggest reading 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 don't submit a claim, you can't get coverage.
- Gather evidentiary support – lost income, additional expenses, etc., – and keep the file up to date to expedite payment if your claim is approved.
- Don't be discouraged if your claim is denied. Insurance companies are facing an unprecedented wave of coverage requests and, just like all of us, they are trying to mitigate their exposure. Persistence may pay off.
- If the insurance company will not budge, you can always consider litigation. Most insurance coverage disputes are resolved during early stages in the litigation process, without extensive and expensive discovery. While there are no guarantees how litigation will resolve, strong written advocacy and creative legal thinking can be powerful weapons in your pursuit of business interruption compensation.

The attorneys at Yankwitt LLP are here to support you now and in the future. While we may not be sitting in our offices right now, we are all working and at the ready to assist you. As always, you can reach us via email and on our office phone number.

Wishing everyone well!