

March 18, 2020

Louisiana Company Files the First Lawsuit Seeking Business Interruption Coverage for COVID-19–Related Losses; More to Come.

As COVID-19 continues to spread and businesses face losses from voluntary and involuntary closures, supplier disruptions and/or interruptions, and potential claims from third parties, it will be critical for companies to evaluate how their insurance policies can help them respond to such losses. In a lawsuit filed in Louisiana state court on Monday, March 16, 2020 (*Cajun Conti LLC, et. al v. Certain Underwriters at Lloyds, London, et. al*), a policyholder is seeking to recover COVID-19–related losses under the business interruption coverage provided in its first-party property policy. The *Cajun Conti* case is believed to be the first lawsuit in the United States seeking coverage for COVID-19–related losses under business interruption coverage, but it almost certainly will not be the last.

Business interruption coverage is often included as an optional coverage with first-party property policies, but it can also be written as a stand-alone policy. Because business interruption coverage is closely associated with first-party property insurance, it typically only applies where there has been direct physical loss/damage to covered property. Whether contamination by the COVID-19 virus constitutes direct physical loss to property is a hotly contested issue in the *Cajun Conti* case, and it is likely to be a major issue in many business interruption claims. Even if *Cajun Conti* and other policyholders throughout the country are able to establish that harm caused by potential COVID-19 contamination satisfies the “direct physical loss” requirement of business interruption policies, the dispute question does not end there. Policyholders will also need to be careful of exclusions in their policies that can remove coverage even if there has been direct physical loss.

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Business interruption coverage is not the only type of insurance that may respond to COVID-19–related losses and/or claims. Companies should review all of their policies to search for potential coverage for any losses experienced during this difficult time. Depending on the specific nature of the loss or claim at issue, and further depending on the specific language found in a company’s policies, other coverages that might respond to a COVID-19 related loss include: *Event Cancellation; Commercial General Liability; Directors & Officers, Management Liability, Errors & Omissions; Professional Liability Insurance; Environmental Insurance; and Workers’ Comp and Unemployment Insurance.*

The insurance recovery attorneys at Michael Best are here to provide guidance and assist clients in their pursuit of insurance coverage to help mitigate losses related to COVID-19.

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