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## Business Interruption Coverage

By Michael E. Farnell

The novel coronavirus and the disease it causes, Covid-19, has upended all of our lives. While the immediate public health emergency remains front and center, it is now readily apparent that both the virus itself and governmental “flatten the curve” response pose significant economic risk. The question has already been asked across the country: “Are my coronavirus-related losses covered by my insurance policy?” The answer is maybe. It will depend on the language of your policy, courts’ receptiveness to the legal arguments policyholders will make, potential legislative intervention, and the inevitable pushback from the insurance industry as the number of claims escalates.

Most businesses have a property insurance policy providing business interruption coverage. This coverage generally requires that the business interruption result from direct physical loss of or damage to property. The insurance industry will very likely contend that viruses do not cause damage to property, but the issue is much more nuanced. Viral matter that settles on surfaces is a clear physical impact. When this physical impact affects a business’s operations, the policyholder has a legitimate claim to coverage. In fact, some courts recognize coverage when a business loses the “functionality” of its property. Nor is this coverage limited to loss of or damage to the insured’s own property. Many policies also have “civil authority” coverage, which provides business interruption coverage when business activity is restricted or prohibited by governmental order. Recent orders applicable to bars and restaurants are an example. In such cases, it can be enough if the governmental order results from the physical loss of or damage to the property of third parties. Some policies, moreover, contain dependent property coverage, which covers business interruption as a result of physical loss of or damage to another business on which the insured relies, such as a key supplier. It should be noted, however, that some policies contain specific exclusions applicable to viruses. Each business owner’s prospects for coverage will turn on the owner’s particular circumstances and the terms and conditions of the owner’s policy.

Other forms of coverage could also be implicated by the coronavirus, including event cancellation coverage, recall/accidental contamination coverage, workers compensation coverage, and general liability coverage. The public health impact of the coronavirus is frighteningly evident, and it now appears that none of us will be immune from the consequent economic impact of the outbreak. Every affected business owner should review its available insurance coverage. This is **not** intended as marketing literature; we’re all in this together. Stay safe.