TRAUB LIEBERMAN

COVID-19 BLOG

April 20, 2020

Business Interruption Insurance

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In these challenging times, the insurance industry is faced with what may be unprecedented claims for Business Interruption and other First Party Losses stemming from the COVID-19 virus.

The attorneys at Traub Lieberman possess extensive experience in Commercial Output Coverage, Commercial Property Coverage, Businessowner Property Coverage, Inland Marine and all other available first party coverages. In a world of questions, the attorneys at TLSS stand ready to provide the answers to those questions which are sure to be central to COVID-19 claims including:

- Does the known presence of COVID-19 at the insured premises constitute a Direct Physical Loss? Is there damage caused by a Covered cause of loss? How about the mere threat of COVID-19? What if an employee is diagnosed with the virus?
- Has a Direct Physical Loss been sustained at a dependent location? To public and private property? To physical spaces in the United States?
- Has there been a “suspension” of operations for purposes of Business Interruption coverage? Complete vs. partial suspension? Was the suspension voluntary or ordered? Has an insured taken appropriate steps to mitigate the suspension?
- What coverages are involved? Extra Expense Coverage? Spoilage Coverage? Extended Business Income Coverage? Contingent Business Interruption Coverage? Dependent Properties Business Income Coverage? Civil Authority Coverage? Communicable or Infectious Disease Coverage? Food/Product Contamination Coverage? Contractual Penalties Coverage? Contract Cancellation Coverage? Transit Business Income Converge?
- Are Specialty Policy Extensions at issue? Hospitality? Healthcare? Manufacturing? Food Service?
- What exclusionary provisions are applicable? Virus and Bacteria Exclusion? Contamination Exclusion? Communicable Disease Exclusion? Pollution Exclusion? Governmental Action Exclusion? Delay, Loss of Use or Loss of Market Exclusion? Acts Or Decisions Exclusion? Law/Ordinance Exclusion?
- Does the language of Government Advisories and Orders have an effect on coverage? Can such language determine whether Direct Physical Loss exists? How about the language of travel advisors and other movement restriction?
- How do the various state legislations under consideration effect coverage? How about the corresponding public policy arguments?

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- What is the existing legal and practical precedent from prior similar clams (SARS, MERS, Avian Flu, H1N1 (Swine Flu), Zika)? Is that precedent applicable to COVID-19?

Traub Lieberman can assist with finding answers to these questions and much more. In addition to Policy interpretation issues, COVID-19 claims also present their own set of challenges and questions as respects claims handling itself including:

- What constitute best practices regarding handling of COVID-19 claim? What constitutes a proper and reasonable investigation? What are the key investigatory facts to be gathered?

- What are the claims handing requirements for key states? What constitutes an effective position letter? How do you assure appropriate response times in both acknowledging and adjusting claims?

- What are the best practices in preparing responses to Insurance Department complaints?

Implementation of a comprehensive and coordinated approach to coverage and claims handling will assure that a smooth and efficient course is charted through the challenging days ahead. Whether it’s a simple coverage analysis or the defense of complex coverage litigation, we stand ready and able to assist.

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