



COVID-19 Alert: Business Interruption Insurance Update

Recently, we alerted you to some issues to consider concerning business interruption insurance and claims for losses arising because of the COVID-19 pandemic. Now, in what appears to be one of the first cases filed in New Jersey ([Grand Cru, LLC v. Liberty Mutual Insurance Co.](#)), the courts are being asked to consider whether there is insurance coverage for losses sustained by a restaurant because of New Jersey Governor Phil Murphy's [Executive Order #107](#), which effectively closed restaurants for sit-down dining because of the coronavirus. This lawsuit is particularly interesting since it alleges that despite a possible exclusion in the insurance policy for losses caused by virus (neither the language of the exclusion nor a copy of the policy are provided with the complaint to verify its existence), such an exclusion would not apply because it violates public policy as discussed in [New Jersey Assembly Bill #3844](#). Bill #3844, which is still pending and has not been enacted, provides a framework for businesses to recover for business interruption losses from their insurer retroactive to March 9, 2020. While the insurance company has not yet responded to this complaint and no determination as to whether there is business interruption coverage has been made, we will continue to review and monitor the issues in this area, and alert you to any significant developments as they arise. In the interim, please do not hesitate to reach out with any questions or concerns.

If you would like to discuss these or other issues or concerns as they affect your business, please feel free to contact Marc Singer directly at 973-507-2423 or by e-mail at mcs@olss.com; or you can visit the OLSS website at www.olss.com to review its practice areas and professional profiles for further information.