

Simpson Thacher Wins Dismissal of Suits by Baseball Teams and Casinos Seeking Billions

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Simpson Thacher has won dismissal of three separate lawsuits seeking to recover business losses attributed to the COVID-19 pandemic filed by Major League Baseball and each team, the Mashantucket Pequot Tribal Nation and the Mohegan Tribal Gaming Authority against the Firm's client, Factory Mutual Insurance Company.

Major League Baseball cancelled much of the 2020 season and played part of the season without fans in the stands during the COVID-19 pandemic. The Mashantucket Pequot Tribal Nation and Mohegan Tribal Gaming Authority both closed their casino resorts starting in March 2020 due to the COVID-19 pandemic. They each separately sought to recover from their property insurer for business interruption losses based on the notion that the COVID-19 virus and related government social distancing orders caused physical loss or damage to their insured property within the meaning of their commercial property insurance policies. Claimants sought damages exceeding a billion dollars.

Three different judges sitting in the Superior Court of California (Alameda County) and the Connecticut Superior Court (Hartford) adopted the Firm's arguments and dismissed the claims with prejudice. After more than a year of discovery, Judge Seligman dismissed *Baseball's* claims primarily because it failed to show covered physical loss or damage as a matter of law. Judge Noble similarly dismissed *Mohegan's* claim because it failed to allege the required physical loss or damage. Finally, Judge Moukawsher dismissed the *Pequot's* claim because "[c]osts caused by a virus are the very thing the policy does not cover by virtue of the contamination exclusion."

The cases are *Oakland Athletics Baseball Co. v. Factory Mutual Insurance Company*, Civil Case No. RG20079003 (Superior Court of California, County of Alameda); *Mohegan Tribal Gaming Authority v. Factory Mutual Insurance Company*, No. HDD-CV-21-6147037 (Superior Court Complex Litigation Docket at Hartford, Connecticut); and *Mashantucket Pequot Tribal National v. Factory Mutual Insurance Company*, No. X07-HHD-CV-21-6140378-S (Superior Court Complex Litigation Docket at Hartford, Connecticut).

The Simpson Thacher team representing FM Global in these matters includes Bryce Friedman, Chet Kronenberg, Isaac Rethy, Summer Craig, Stephen DiGregoria, Lindsay DiMaggio, Brandon Kenney, Brandon Orewyler, John Santacruz and Kathryn Wheelock.

Team and

Bryce Friedman

Chet Kronenberg

Contacts

Partner

bfriedman@stblaw.com

+1-212-455-2235

Summer Craig

Counsel

scraig@stblaw.com

+1-212-455-3881

Brandon Kenney

Associate

brandon.kenney@stblaw.com

+1-212-455-3297

Partner

ckronenberg@stblaw.com

+1-310-407-7557

Lindsay DiMaggio

Associate

lindsay.dimaggio@stblaw.com

+1-310-407-7533

Johnny (John) Santacruz

Associate

john.santacruz@stblaw.com

+1-212-455-7197

