

In Consolidated Appeal, New Jersey Appellate Court Affirms Dismissal Of Policyholders' COVID-19 Coverage Suits (Insurance Law Alert)

06.30.22



(Article from *Insurance Law Alert*, June 2022)

For more information, please visit the [Insurance Law Alert Resource Center](#).

Ruling on six consolidated appeals, a New Jersey appellate court held that insurers had no obligation to cover business losses incurred as a result of government orders aimed at slowing the spread of COVID-19. *MAC Prop. Grp. LLC v. Selective Fire & Cas. Ins. Co.*, 2022 WL 2196396 (N.J. App. Div. June 20, 2022).

Various business owners sought coverage under property policies containing similar language. Each policy required “direct physical loss of or damage to” insured property. The court deemed this phrase unambiguous and requiring “a detrimental physical alteration of some kind” or “a physical loss of the insured property.” The court concluded that the policyholders failed to satisfy this requirement, stating:

[N]o plaintiff alleges the coronavirus was present on their properties or rendered their properties uninhabitable. Instead, plaintiffs’ businesses were shut down or had their operations limited by the [Executive Orders]. Each plaintiff would have been able to continue functioning . . . without interruption had Governor Murphy not issued his [Executive Orders]. None of plaintiffs’ premises required any repairs due to damage, nor needed to be relocated and then reopened.

The court also ruled that civil authority coverage was unavailable, reasoning that access to insured property was not “prohibited,” as required by the policy. Additionally, there was no damage to nearby property; instead, the government orders were issued in order to slow the spread of the virus.

Finally, the court rejected the policyholders’ regulatory estoppel arguments as without merit and ruled that for several policies, coverage was barred in any event by a virus exclusion.

Employing the same reasoning, another New Jersey appellate court affirmed a summary judgment ruling for an insurer on business income and civil authority coverage claims this month. *Rockleigh Country Club, LLC v. Hartford Ins. Grp.*, 2022 WL 2204374 (N.J. App. Div. June 21, 2022).

Authors and Contacts

[Bryce Friedman](#)

Partner

bfriedman@stblaw.com

+1-212-455-2235

