The Coronavirus and Business Insurance

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In light of the widespread effects of the coronavirus, there are several possible claims under business insurance policies that business owners should consider.

Commercial all-risk property policies and inland marine policies generally require direct physical loss or damage to the insured property as a prerequisite to business interruption coverage. Depending on policy language, there may be an argument that if the presence of the virus on the insured’s property renders the property unusable, the requirement for physical loss or damage may arguably be satisfied. On the other hand, if the use of the property is limited only because of the presence of the virus in the community, there generally would not be a physical loss or damage.

Similarly, contingent business interruption requires a direct physical loss or damage to the property of the insured’s suppliers that affects the insured’s operations. If the presence of the virus on the supplier’s property renders the property unusable, the requirement for physical loss or damage may arguably be satisfied.

In addition to direct physical loss or damage, some policies extend coverage to business interruption when the insured’s property is closed or unusable because of an order by a civil authority. Usually, however, the order must be the result of an insured peril.

Further, some specialized forms of coverage include the expenses of quarantine and
debris removal, which could apply depending on how the insured’s property is affected by the virus.

Insureds considering making a claim for losses due to the virus also should pay particular attention to the Duties of the Insured in the Event of a Loss, which include notifying the insurer of a potential loss and furnishing a prompt description of the damaged property and the circumstances of the loss. Failure to fulfill these obligations could result in the denial of a claim.

While most claims will be under property insurance policies, other types of policies may be in play. While all insureds are endeavoring to respond properly to the virus, some individuals may claim that a particular insured’s response was inadequate and caused them to contract the virus. In this case, there could be questions whether there was an occurrence under a general liability policy because the claim arose out of the insured’s intentional actions. Prompt reaction to the virus in accordance with the guidance of the CDC and other authorities may avoid any such coverage issues.

Similarly, there may be issues under workmen’s compensation policies whether an employee contracted the virus during the course of their employment. Unintended exposure to a sick co-worker generally would not qualify as a workmen’s compensation claim. But, if the worker’s job involved some particular exposure to the virus as part of their job, it could be a covered compensation claim.

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