







Carly Zagaroli

- Litigation attorney who focuses on high-stakes litigation cases involving insurance, intellectual property and general corporate disputes
- Specializes in insurance law and provides advice on insurance policies, including risk analysis, proper insurance and the claimsmaking process (including dealing with insurance companies when claims are denied)

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Categories of Trending Litigation

- Broken Down into 3 Categories:
- Employment-Related Claims
- Consumer Claims
- Business Practice Claims
- Insurance Coverage Review Significant Claims in Each Category

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Business Interruption Litigation Status



- Separate Trend Litigation Against Insurers Related to Coverage for Disruption of Insureds' Business
- Insureds Frequently Filing Claims to Preserve Rights
- 2 Principal Coverage Areas:
- Business Interruption
- Civil Authority
- Physical Loss/Damage Prerequisite
- Potentially Applicable Exclusions

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Business Interruption cont'd



- Litigation has Begun in Several States: California, Florida, Illinois, Indiana, Louisiana, Oklahoma, Texas
- Political Action
- Federal Pressure: President Trump on April 10: "You have people that have never asked for business-interruption insurance and they have been paying a lot of money for a lot of years for the privilege of having it and then when they finally need it, the insurance company says 'We're not going to give it'...We can't let that happen."
- State Legislation: New Jersey; Ohio; Massachusetts; New York; Louisiana; Pennsylvania; South Carolina

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Employment-Related Claims



- Exposure/Illness Claims Made By Employees and Family Members
- Alleging Negligence, Violation of Guidelines, Rules, Best-Practices etc.
- Causation Issues
- Potential Continuing / Progressive Injury Issues
- Class Actions
- Existing Templates to Follow: Asbestos and other workplace toxic-exposure cases

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Coverage Issues for Employment-Related Exposure Claims



- General Liability Policies Excluded:
- Arising out of employment by Insured (performing duties for insured)
- Also excludes claims by family members

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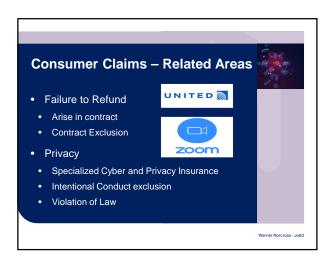




Coverage Issues General Liability Protects against third-party claims for bodily injury, property damage, and personal and advertising injury. "We will defend against claims and pay sums that you are legally obligated to pay as damages because of bodily injury . . . unless otherwise excluded in this policy"







Negligence or failure to deliver because of COVID-19 Error in product due to conditions relating to COVID-19 Shareholder claims for failure to handle COVID-19 properly

Coverage Issues for Business Practice Claims Directors and Officers Liability Insurance Side C Entity Coverage Private Companies: • Entity coverage is broader and may include coverage for negligence-based claims relating to COVID-19 risk mitigation, preparedness, response measures, etc. Public Companies: • Entity coverage is limited to securities claims (e.g. shareholder class action relating to adequacy of COVID-19 risk disclosures

Coverage Issues for Business Practice Claims Errors and Omissions Liability Policies Protects a business for claims of errors and omissions in providing a professional service or failing to deliver a service. Examples: • Failed to deliver a service due to COVID-19 • Gave incorrect advice relating to COVID-19

Coverage Issues for Business Practice Claims Potential Exclusions: Bodily Injury Pollution Intentional/Deliberate Conduct Contractual Liability Professional Services (in D&O policies)

Emerging Issues for Business Practice Coverage Shareholder class actions Coverages A & B Claims against directors and officers for breach of fiduciary duties in handling or preparing for COVID-19 Securities Claims for misleading disclosures

Upcoming Warner Webinars • May 1: Managing your Supply Chains After COVID-19 • May 6: Employment Litigation after COVID-19 • May 7: COVID-19 Strategies for Reducing Your Legal Spend • May 12: Gaining Access to Government Data During COVID-19 with FOIA and OMA • Visit WNJ COVID-19 Resource Center at www.wnj.com/About-Us/COVID-19-Updates Email covid@wni.com to subscribe to Warner's eAlerts and webinars. Warner Norcross-Judd

