

Insurance Coverage Related to the COVID-19 Pandemic

The COVID-19 pandemic is affecting the insurance and reinsurance industry in significant ways. Policyholders are challenging the application of physical damage requirements for business interruption coverage, civil authority provisions and even virus exclusions in various lines of insurance. There are state and federal legislative proposals that, if enacted, would require insurance policies to respond to business closures when they were not intended to do so. Coverage and class action litigation is being filed, and insurers increasingly need to anticipate pushback and potential regulatory scrutiny in connection with their claims-handling practices.

Saul Ewing Arnstein & Lehr has a team of lawyers who has helped insurers develop strategies to minimize, handle and cede such claims with an in-depth understanding of their insurance products in the midst of a dramatic explosion in business interruption and other COVID-19-related claims. Attorneys in our Insurance Group are advising property and casualty insurance companies, life and health insurers, and insurance intermediaries on a variety of matters related to the pandemic, including in the following areas:

- **Coverage**

- We are handling more than 100 matters involving business interruption; mitigation of loss and causation of loss issues; civil authority closures; lines of insurance that include property coverages, travel insurance, environmental liability and professional liability; and general liability claims.
- We are assisting insurers in coordinating their positions within and across lines of insurance with regard to COVID-19 claims to help ensure consistency and compliance with policy provisions and insurance regulations.

- **Policy Drafting**

- We are helping insurers draft communicable disease exclusions and other pertinent provisions.
- We are addressing issues raised by the increase in regulatory scrutiny of exclusions, and are tracking and analyzing proposed regulations and legislation across the U.S. that would affect the application and enforceability of existing and proposed future exclusions.

- **Reinsurance**

- We are advising on reinsurance claim presentations and potential reinsurance coverage and aggregation issues.
- Our attorneys regularly handle reinsurance disputes in which there are issues of coverage for losses that may be extra-contractual or ex gratia, disputes involving how losses should be aggregated or batched, and what constitutes a single event under reinsurance contract wording.

- **Litigation**

- We are currently representing insurers in coverage litigation.
- We are leveraging our decades of class action experience to assist clients with both high-level strategy and preparation for the defense of actions across the United States
- We are representing a well-known carrier in a nationwide class action challenging the denial of travel insurance claims related to COVID-19 stay-at-home orders.

- **Regulatory**

- We are advising insurers on regulatory issues arising from filings of new communicable disease exclusions and from Insurance Department proposals regarding limitations on denials of claims arising from the pandemic.
- We are counseling insurers on the constitutionality (both federal and state) of various regulatory and legislative proposals.

Our team advises clients across the U.S., with attorneys admitted to practice in 29 states, who also have appeared pro hac vice in other jurisdictions.

For more information, please contact:



Laurie Kamaiko

Partner | New York
(212) 980-7202

Laurie.Kamaiko@saul.com



Clarence Lee

Partner | Washington, D.C.
(202) 295-6614

Clarence.Lee@saul.com



Tom Schaufelberger

Partner | Washington, D.C.
(202) 295-6609

tschauf@saul.com

The provision and receipt of the information in this publication (a) should not be considered legal advice, (b) does not create a lawyer-client relationship, and (c) should not be acted on without seeking professional counsel who have been informed of the specific facts. Under the rules of certain jurisdictions, this communication may constitute "Attorney Advertising."

© 2020 Saul Ewing Arnstein & Lehr LLP, a Delaware Limited Liability Partnership

060220