

## *COVID-19 Insurance Coverage Checklist*

Businesses are experiencing devastating losses due to mandated restrictions and shutdowns, as well as the cancellation of events. What's more, no one knows how long this will continue. As a result, many businesses are considering whether their insurance might provide some relief from the losses they already have incurred, or likely will incur, due to this crisis. While the insurance policies issued to different businesses can vary, there may be good arguments for coverage in connection with this crisis, and good reason to submit a claim for coverage.

Buchalter has a particular specialty in helping insurance policyholders understand their insurance coverage rights, submitting initial insurance claims ("tenders"), and advocating for maximum coverage through negotiations and, if necessary, litigation.

We already have been retained by various trusted clients to assist them in assessing and enforcing their rights under their insurance policies. Whether your business plans to hire counsel to assess and enforce its coverage rights or plans to undertake that process itself, there are several important steps that you should be taking now to facilitate that process, including:

1. Gather from your files (or request from your insurance broker) complete copies of your insurance policies, including:
  - Current commercial property policy; and
  - Current liability policies:
    - General Liability;
    - Errors & Omissions;
    - Directors & Officers; and/or
    - Employment Practices Liability.
  - Current Event Cancellation policies (if applicable)
2. Document the circumstances resulting in complete or partial suspension of your business operations. For example:
  - any suspected or confirmed COVID-19 contamination of persons or property of any kind;
  - the state or local closure mandate/orders;
  - any public health enforcement actions;
  - any private closure of business premises, such as by a landlord;
  - closure/blockage of physical access to/from your business;

- loss of access to necessary production sources or market for goods or products (i.e., have you been unable to get necessary products from suppliers due to this crisis or open your business to its usual customers); and
  - specific dates/date ranges of the foregoing circumstances.
3. Submit (directly or through broker or attorney) a written claim for losses sustained due to this crisis. Discuss insurer's claim response with broker or attorney.
  4. Document all non-recurring business expenses necessitated by above circumstances (these are additional expenses that you are incurring because of this crisis).
  5. Preserve all financial records potentially reflecting the amount of business income lost due to suspension of operations. For example:
    - Prior monthly/yearly financial statements; and
    - Financial statements during suspension of operations.
  6. Document any oral or written complaints or claims of injury or loss resulting from something your business did nor did not due in response to this crisis. Consult broker or attorney to determine whether "tender" to a liability insurer is appropriate.

The members of our Insurance Coverage Group stand prepared to discuss how we can help you through this process. Please feel free to contact any Buchalter attorney listed below.



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