

Micah Skidmore in Nation's Restaurant News on Business Interruption Lawsuit Headed to Trial

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PRACTICES Insurance Recovery, Litigation

Haynes Boone Partner [Micah Skidmore](#) was quoted in *Nation's Restaurant News* about a landmark business interruption lawsuit that is headed to trial.

Below is an excerpt:

A landmark business interruption claims case is going to trial after a Kansas City judge upheld his ruling on Tuesday that the Missouri-based restaurant/brewery group K.C. Hopps sustained “direct physical loss or physical damage during the pandemic.” ...

... “The majority of the courts have said, ‘No, you don't get to go past first base, because most of the policies that are an issue in these cases, have a requirement for physical loss or damage,’” Micah Skidmore, an insurance attorney with law firm Haynes Boon said. “The frontline of this whole debate is when you have a business that is losing money because of the pandemic, is that considered physical loss?”

Skidmore said that for the most part, the only successful business interruption claims cases have focused on evidence of COVID-19 infection on their property, instead of the government-forced lockdowns.

“Courts have not found that the orders themselves qualify as physical loss cases,” Skidmore said. “By and large, those that have succeeded had been the ones that have said we have viral contamination on the premises. [...] So, this case is consistent with the idea that if you have the virus present at your property, you have a better chance of establishing that you have [a case].” ...

... “The insurers are banging on the table saying, ‘you can clean it; it's not physical loss,’” Skidmore said. [...] But it's not quite as simple as just wiping something down. [...] If you clean the tables and chairs, then what about fabric surfaces like carpet and tablecloths? How do you know when you've eliminated the virus from the air? And once you do a deep clean, how are you going to ensure that there isn't somebody that comes in the next day and coughs and you have to do it all over again?”

To read the full article, click [here](#).