

Adrian Azer and Michael Scanlon in Claims Journal: 'Another COVID-19 Worry: What is My Deadline to File Suit'?

January 6, 2021 Adrian Azer, Michael Scanlon

PRACTICES Insurance Recovery

When the scope of the COVID-19 pandemic became apparent in March 2020, an avalanche of articles appeared in which many insurers took the position that there was no coverage for losses associated with the SARS-CoV-2 virus due either to a lack of physical loss or damage to property necessary to trigger coverage under most commercial property policies, or to the effect of virus exclusions found in many such policies. Law firms representing policyholders pushed back, bringing to the attention of insureds the body of case law finding physical loss to property when a dangerous physical condition or social perception thereof prevents an insured from fully using its property as intended.

Numerous policyholders filed claims under their commercial property policies, many of which were denied by insurers. Policyholders and insurers have begun to test their theories in court, and the initial spate of trial court decisions are a mixed bag with regard both to whether and how the SARS-CoV-2 virus or public health orders pertaining to the COVID-19 pandemic can cause coverage-triggering “physical loss or damage” and to what are the scopes and effects of the various virus exclusions in the market. Understandably, many businesses are waiting until appellate courts start to weigh in before deciding whether to file their own lawsuit.

Such businesses need to be aware of several risks associated with the “wait and see” approach and take steps to mitigate them.

Excerpted from *Claims Journal*. To read the full article, click [here](#).