

Scott Seaman Discusses Upcoming California Supreme Court COVID-19 Coverage Appeal Case

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Scott Seaman—Chicago-based partner and co-chair of Hinshaw’s global Insurance Services Practice Group—discussed with *Law360* a COVID-19 coverage appeal case set to be decided by the California Supreme Court. The court has agreed to decide whether the presence of COVID-19 can fulfill a “physical loss or damage” requirement in commercial property insurance policies under state law, and will bring the court one step closer to settling state law on virus-related coverage claims.

Seaman said that all parties involved in West Coast COVID-19 litigation will be closely watching for the California Supreme Court’s answer in the case. He added that it will be interesting to see the scope of the high court’s answer given the “fairly narrow” question being asked. The court could choose to cover more legal ground, but if it rules in line with the vast majority of other courts that have decided whether the presence of the virus can cause a direct physical loss or damage, it will answer “no,” Seaman said.

“The minority of courts that allow the policyholder to survive a motion to dismiss are not ensuring ultimate victory for a policyholder,” Seaman wrote. “Often denial of a motion to dismiss amounts to an invitation for the parties to expend additional litigation costs where the ultimate result on summary judgment or trial will be a determination of no coverage.”

[Read the full article](#) (subscription required)

“Calif. Supreme Court Takes Up COVID-19 Coverage Appeal” was published by *Law360* on March 2, 2023.

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