

Scott Seaman Reviews Why “Insurers Have Won the COVID-19 Coverage War” in Law360

In The News | 2 min read

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Scott Seaman, a Chicago-based partner and co-chair of Hinshaw’s Insurance Services Group, was featured in a *Law360 Insurance Authority* story about the legal battles over insurance claims related to COVID-19 business losses.

Notwithstanding some pending cases and inconsistent rulings, the overwhelming majority of decisions have favored insurers, leading Seaman to declare that, even though some important battles remain to be fought, “insurers have won the coverage war.”

Law360 Insurance Authority Excerpt:

Scott M. Seaman, an insurer-side attorney with Hinshaw & Culbertson LLP, said, “insurers have won the coverage war.”

They “have prevailed in every U.S. Court of Appeals circuit (except for the D.C. Circuit, which has not ruled),” he added.

Seaman said few new business interruption filings are expected, as contractual limits on bringing such cases have already expired under most first-party policies. Prior to the pandemic, he said, policies often had exclusions for virus or pandemic coverage but noted that “now almost all such policies contain exclusions.”

Though there were legislative proposals aimed at providing coverage by fiat or creating a government-backed fund to help out impacted business owners, none of those attempts were successful, Seaman said.

[Read the full article](#) (*subscription may be required*).

- “[Curtains Fall Rapidly For COVID-19 Loss Coverage](#)” was published by *Law360 Insurance Authority* on July 3, 2024.

Seaman added separately that most of the decisions are based on the absence of direct physical loss or damage. According to the University of Penn Law COVID-19 Coverage Litigation Tracker, insurers have prevailed in whole or in part in more than 80 percent of decisions on 237 motions to dismiss in state courts and 96 percent of the motions to dismiss in federal courts.

Insurers have prevailed before state supreme courts in California, Connecticut, Delaware, the District of Columbia, Iowa, Louisiana, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Ohio, Oklahoma, South Carolina, Washington, and Wisconsin.

Policyholders have prevailed before the Vermont Supreme Court, with the vast majority of state appellate court decisions siding with insurers. Learn more about COVID-19 coverage litigation in Chapter 22 of Scott Seaman's and Jason Schulze's Two Volume Treatise, *Allocation of Losses in Complex Insurance Coverage Claims* (12th Ed. Thomson Reuters 2024), available [here](#).

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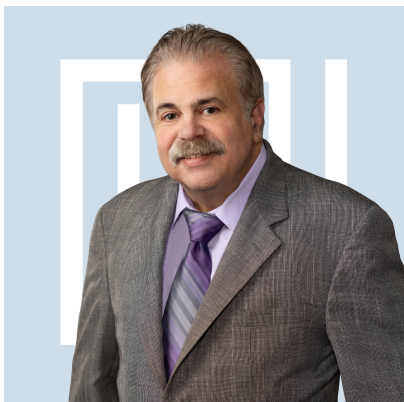
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