

Event-Cancellation Insurance Issues During a Pandemic

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As the effects of coronavirus continue, organizations and companies now are considering whether events in late 2020 and early 2021 can take place or need to be converted to virtual events. What insurance effects will those changes and cancellations have? Consideration of these important decisions requires a review of both event-cancellation insurance and a consideration of force majeure and other such issues.

On the insurance front, years ago, many policyholders purchased event-cancellation insurance for events in 2020, 2021, and even as far out as 2024. Such policies, purchased before the middle of March 2020, generally contain explicit coverage “buy-backs” for losses from “communicable disease.” That is, the policyholders paid an extra, specifically identified premium to remove any exclusion for communicable disease from these policies. Typically, these policies do not use the word, “virus”, but rather use “communicable disease”; and exclude neither. Those policies typically cover a specified amount of net profit and include additional coverages for “Cost of Remedial Action”, “Future Marketing Expense”, etc., over and above that specified amount of coverage.

These policies often call for both notice of circumstances and notice of claim. Because of the lead-time needed to plan for the kinds of events typically covered under such policies, and for planning a conversion to a fully virtual format, many policyholders are now considering whether their early 2021 events can proceed or whether they should convert them to virtual events. Policyholders who are mulling these issues should consider giving notice of circumstances; once the decision is made to cancel or convert an event, the policyholder should give notice of an actual claim.

As the amount of loss becomes clear, policyholders should submit proof of loss statements. How to present these losses often depends on policy language and the kinds of losses in question. Policyholders should review their policies to understand if they include a deadline for submitting a proof of loss (or a deadline applicable to the policyholder’s right to sue).

While many policies apply to events scheduled for 2021 and beyond, many of course do not. Policyholders who bought such coverage after the middle of March 2020, have limited communicable disease coverage. Those who bought event cancellation coverage after April 2020, now have full exclusions for COVID-19. These policyholders have typically not been able to get the same buy-backs of the communicable disease coverage found in event-cancellation policies purchased before

mid-March 2020. Policyholders should start as early as possible this year and next on their renewals. Consultation experienced insurance recovery counsel is recommended to help policyholders carefully review application questions and proposed policy language changes and consider the effects of such changes across coverages.

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