

An Insurance Expert's View of Industry Trends for Commercial Litigators [VIDEO]

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In this exclusive expert video briefing from the IMS COVID-19 Research Insights Series, we speak with Insurance Industry Expert, Dale Crawford, about various insurance claims and coverage as it relates to COVID-19.

Chris Ritter: How do you see the various companies handling what are going to be record numbers of claims coming in? Any thoughts on how that's going to happen?

Dale Crawford: I think that's going to be a very big issue, because with the claims that have already been turned in, the lawsuits against insurers for the business interruption coverage, and whatever else we might see workers compensation, liability claims, other business interruption claims, causes of shut down, things of that nature, this could be a big issue for the industry to be able to respond to this in a timely manner. It's very likely that we will be seeing a lot of claims in a very short time. How the industry responds to that, we don't know.

Ritter: Overriding all of this, or overall arching all of this, are our various rules and regulations that states, insurance commissioners have for timing and how quickly things have to be processed and the standards that apply.

Crawford: Insurance companies can respond to that in one way. For example, when there's a large wildfire or hurricane or something of that nature, they have adjusters who they will send out on a temporary basis to handle things. That will probably be done here too. They will allocate and shift resources to be able to respond to it. It's the extent, the magnitude of it that we really don't know yet and there is a big question that probably won't be seen for some time.

Crawford: The reinsurer is obligated to go along. The only exception is if the circumstances are so extraordinary that the reinsurer believes that it was entirely an inappropriate settlement of a claim, that they have a reason to dispute it. But otherwise a reinsurer has an obligation to go along with the settlement activities of an insurer. That's the fundamental principle. It's almost inevitable though that someplace down the line on some line of insurance, in some situations, that there will be disputes that hit the reinsurance industry as well.

Ritter: Dale, you've listed an amazing number of industries that are going to be affected. Different

industries have different kinds of insurance, different kinds of claims are covered by different kinds of insurance, can you give us a list of the types of policies that are going to be called into question over the next few years?

Crawford: Probably the most common will be property policies again, getting back to the business interruption aspect, but I can also see directors' and officers' liability coming into play for businesses that have lost value. Another aspect, it's likely to be people who have contracted the virus and had patronized anything from a gym to a casino, a hair salon, maybe even a grocery store and want to allege that it was acquired in that particular business.

Crawford: This would produce a general liability claim to the business itself. That's one of the things. Another one that I see as sort of a sleeper out there would be workers compensation in the industries that have been hit very hard. For example, nursing homes, meatpacking plants, we've all heard of, any type of elder care facility, and also prison guards, where there is a large concentration of people who have contracted the virus, and will there be the assumption that it was acquired on the job and workers comp would have to respond to it?

Ritter: What about errors and omission policies? You see those being raised as we move along for brokers and otherwise who may be accused of not doing their jobs and protecting their insured?

Crawford: I think that's entirely likely that for a large business that is determined to not have coverage for business interruption, for example, due to the shutdown, an action that says this coverage was available, you didn't tell us about it, you didn't attempt to find out if it was there, you didn't make us aware of it.

Crawford: Trying to look at this thing from the big picture, this pandemic has caused the greatest aggregate financial loss since the Second World War. It's been widespread, everybody has been affected. The loss is so great that insurance is going to be asked to respond. There are cases where it certainly is going to have to respond. There will be losses to the industry. How this plays out, how long it plays out, we don't know yet.

Crawford: For some, there will be coverage that is clearly intended to apply. For some there will be exclusions, for some it will be in the middle. There may not be an answer. But there will be obviously a lot of claims activity, a lot of calling upon the insurance industry to respond to some of these financial losses. Exactly how this will play out, nobody knows, and it's compounded by the fact that this is a worldwide situation, and the insurance industry does not know any national borders. It's a global industry.

Crawford: The virus has affected different countries in different ways. There are different laws, different customs, different cultures. There are a lot of questions out there. Insurance is going to be affected, it will be in play, there will be a lot of claims activity, and just how this plays out is going to be an evolving situation.

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