

Prime Time Sports Grill, Inc. v. DTW1991 Underwriting Limited, A Certain Interested Underwriter at Lloyd's London

Year: 2020

Court: United States District Court Middle District of Florida

Case Number: 8:20-cv-00771-CEH-JSS

In its brief, UP opposed a Motion to Dismiss and seeks to address the limited issue that the certain covered causes of loss (such as COVID-19 and civil authority orders) can in good faith be alleged to have caused “direct physical loss or damage.” UP argued that Florida law is clear that structural alteration of covered property is not a necessary element of “direct physical loss or damage,” especially where the insured property is otherwise rendered unusable or unusable for its intended purpose. In addition, contamination itself, such as the presence of a noxious or disease causing agent in and around the insured property, can constitute “direct physical loss or damage,” and business interruption coverage may be triggered where contamination of insured property – even if the contamination is merely presumed or imminent – causes a “necessary suspension” (either completely or in part) of the insured business’s “operations.”

This brief was drafted pro bono by R. Hugh Lumpkin, Matthew B. Weaver, and Noah S. Goldberg of Reed Smith LLP

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