

Vita Coffee, LLC v. Fireman's Fund Insurance Company

Year: 2020

Court: United States District Court Western District of Washington at Seattle

Case Number: 2:20-cv-01079-JCC-DWC

In its brief, UP, along with the National Independent Venue Association and the Washington Hospitality Association, opposed a Motion to Dismiss a COVID-19 Business Interruption claim by Fireman's Fund Insurance Company.

UP focused on the following arguments:

- Washington rules of insurance contract interpretation do not allow exclusionary language to be read into coverage grants.
- Defendant's request that its coverage grants be rewritten to contain exclusionary language must be rejected as inconsistent with Washington's rules of policy interpretation.
- Defendant's arguments have already been rejected by Washington courts who, instead, have held that "direct physical loss or damage to property" occurs when insured property becomes physically lost, impaired, or less useful.
- A court following Washington precedent has already held that COVID-19 and related closure orders trigger coverage under policy language virtually identical to that at issue here.
- The weight of national authority—and the national authority most likely to be found compelling by the Supreme Court of Washington—has found that insured property's loss of function or suitability for an intended purpose, whether temporary or permanent, can constitute "direct physical loss or damage."

This brief was drafted pro bono by Tristan N. Swanson and Carolyn A. Mount of Miller Nash Graham & Dunn LLP

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