

THOUGHT LEADERSHIP

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JASON R. FATHALLAH
MILWAUKEE:
414.978.5502
JASON.FATHALLAH@
HUSCHBLACKWELL.COM

SCOTT J. HELFAND
CHICAGO:
312.341.9876
SCOTT.HELPAND@
HUSCHBLACKWELL.COM

AJ FABIANCZYK

Husch Blackwell Secures Pair of Decisions Affirming Dismissal of COVID-19 Coverage Claims in the Seventh Circuit

Husch Blackwell secured two appellate decisions affirming dismissal of nationwide class action lawsuits brought by insureds seeking coverage for losses stemming from government closure orders issued during the COVID-19 pandemic.

In both appeals, the United States Court of Appeals for the Seventh Circuit concluded that business-interruption coverage was unavailable because COVID-19 does not cause physical loss of or damage to property. The Seventh Circuit also found coverage unavailable under a provision that covered losses if a government board of health shut down the insureds' operations due to an outbreak at their insured premises. In so doing, the court explained that the government closure orders were not issued because of any conditions at the insureds' premises. Rather, "the orders were general prophylactic measures taken to slow, suppress, and stop the spread of COVID-19."

"The Seventh Circuit's rulings are consistent with established state law on insurance-policy interpretation and with the decisions of every state and federal appellate court to consider these issues," said partner Jason R. Fathallah, who led Husch Blackwell's efforts in both appeals. "The courts have recognized that, while COVID-19 has caused unprecedented challenges for businesses, courts do not have a mandate to rewrite unambiguous insurance policy language."

The Seventh Circuit rulings follow a string of recent successes for the Husch Blackwell team in COVID-19 coverage cases, including in Illinois state court and Michigan federal court. Husch Blackwell also previously secured a

decision at the Seventh Circuit affirming dismissal of another COVID-19 coverage lawsuit alleging claims for rebate of premiums on behalf of a putative nationwide class of insureds.

The Husch Blackwell team led by Fathallah included partners Michael D. Hayes and Scott J. Helfand and attorney AJ Fabianczyk.