



**Monday, April 20, 2020**

## **Insurance Fight Following Bar, Restaurant Closures Brewing**

Denial of access to insurance dollars by businesses due to closures from the new coronavirus outbreak is expected to spark a fight between business owners and insurers.

Following bar and restaurant closures in response to the outbreak, business owners in Michigan and other states have been finding that their business insurance policies do not cover closures for a pandemic. This has led to businesses filing lawsuits against their insurers over rejected claims across the country.

Dan Cotter, an attorney with Howard and Howard Attorneys PLLC, said several cases have been filed across the country already involving civil authority clauses in business insurance policies.

Civil authority clauses in policies determine whether to cover businesses when access to a business owner's property is denied by a governmental authority. Typically, this involves incidents such as a fire or some other safety issue.

Mr. Cotter said many claims are being denied either to the civil authority coverage issue or due to specific exclusions written into an insurance policy.

"This will be a battle," Mr. Cotter said for many businesses and insurers nationally.

Mr. Cotter added that estimates vary but the issue could be one that involves hundreds of billions of dollars per month within the insurance industry, so the fight could go on for the foreseeable future.

"Courts are going to vary around the country," Mr. Cotter said as cases make their way through the courts.

He said if Congress were to change the law to require such claims be approved, that could lead to court battles over constitutionality. Mr. Cotter said that fight if Congress were to act would involve the contracts clause in the U.S. Constitution prohibiting states from interfering with private contracts.

**Rep. Tommy Brann** (R-Wyoming) said he has been working on a draft bill that would require insurers to address business interruption claims related to pandemics. He said he has also sent some draft language to his congressperson. Mr. Brann said Congress has shown some interest in looking at the issue as well.

Mr. Brann has been experiencing the impact of COVID-19 firsthand, having been operating a family restaurant for decades.

Mr. Brann said he was told by his insurer a claim would not be accepted for a business interruption due to the virus. He said it is disappointing not only to himself but for many in the restaurant industry.

"You pay all these years and when you need it, they're not there for you," Mr. Brann said.

He said he was unsure how far legislation might go after the pandemic has receded, especially since the budget will be the main priority during the next couple of months.

"You buy it for peace of mind," Mr. Brann said of business insurance. He said for himself and many other restauranteurs that peace of mind does not exist right now.

A message left Monday with the Michigan Restaurant and Lodging Association for comment was not immediately returned.