



BELLNUNNALLY PARTNERS BRENT TURMAN AND ROSS WILLIAMS ON BUSINESS INSURANCE CONCLUDE WITH HOPEFUL NOTE FOR ENTERTAINMENT INDUSTRY COVID-RELATED BUSINESS INTERRUPTION CLAIMS

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Bell Nunnally partners Brent A. Turman and Ross Angus Williams authored the *Business Insurance* article “Perspectives: Where the buck might stop: Broker liability for lack of coverage on live-event COVID-19 cancellations.” The piece explores legal pathways to monetary recovery for entertainers and entertainment venues affected by the COVID-19 pandemic from insurance brokers who failed to secure adequate/comprehensive coverage that would have better protected against losses, potentially a direct legal imperative. “Depending on the state where an insurance broker, manager or potential policyholder is based, the broker may owe its client one or more fiduciary duties.”

Turman and Williams note that most policies, pre-pandemic, included communicable disease language by default. “While insurers rarely provided coverage without question or exclusions, if a policyholder had this specific coverage, it had an avenue through which it could seek financial recovery in the event of losses after a disease outbreak.” However, post COVID-19 emergence, policies no longer automatically include such coverage, even as an option.

As illustrated in a pending lawsuit brought by the band Mötley Crüe, liability for insurance brokers who failed to secure communicable disease coverage prior to the events of 2020 is an issue before the courts. The band’s managers assert that their insurance broker acted negligently by breaching its duty to act with reasonable diligence and promptness to obtain a late-2019 requested insurance policy that would have provided business interruption coverage. They also claim the broker breached a verbal contract to obtain the insurance.

The Mötley Crüe matter may serve end up serving as a litmus test for similar claims, "The case is ongoing, and the broker denies liability. But the plausibility of such claims is not reasonably in question, as a general legal matter."

Beyond the Mötley Crüe case, Turman and Williams add that brokers may still have exposure to liability for business interruption claims from the pandemic:

Among others, touring entertainment acts could have claims against their broker if they found themselves without communicable disease coverage for live events canceled within a certain time frame.... Depending on the jurisdiction, the terms of the engagement and other factors, the potential claims may include breach of fiduciary duty, professional negligence and/or breach of contract, among other things. The broker likely has errors and omissions insurance against the risk of such claims.

The piece concludes with a hopeful note for entertainment industry policyholders seeking recourse for business interruption claims stemming from the pandemic, "Those in the live events industry that suffered big losses due to COVID-19 cancellations should consider consulting legal counsel to evaluate all recovery options before chalking it up to a loss and moving on."

To read the full article, please click [here](#).

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