

Owners of New Orleans Restaurant Seek COVID-19 Coverage Declaration in New Lawsuit

NEW ORLEANS — The owners of a New Orleans restaurant have sued Certain Underwriters of Lloyd's, London in Louisiana state court, seeking coverage under an "all risk" insurance policy for potential losses arising from the COVID-19 pandemic.

In a March 16 complaint filed in the Civil District Court for the Parish of Orleans, the owners of the Oceana Grill seek a judicial declaration that the policy covers "direct physical loss and/or from a civil authority shutdown due to a global pandemic virus."

The policy does not exclude losses — business or property — from a virus or global pandemic, plaintiffs maintain. A declaratory judgment that the policy provides coverage for COVID-19-related losses "will prevent the plaintiffs from being left without vital coverage . . . should operations cease due to a global pandemic virus and civil authorities' response," the complaint says.

The complaint also names Louisiana governor John B. Edwards as a defendant and seeks a declaration that his March 13 statewide civil authority order applies to restaurants with patronage of more than 250 guests.

The governor's order bans gatherings of 250 or more people in a single space at the same time, but specifically exempts locations "like" airports, medical facilities, shopping centers or malls, office buildings, factories or manufacturing facilities, or grocery or department stores. However, it does not specifically exempt restaurants, leaving it unclear whether Oceana is exempt, the lawsuit says.

"As a Louisiana business, Oceana must comply with the order and if they must limit the number of guests allowed in their establishment, modifications to the daily operations of the restaurant must be made to the daily operations of the restaurant must be made to further prevent loss, which will affect the business performance," plaintiffs assert.

New Orleans mayor LaToya Cantrell has issued restrictions on all full-service restaurants with seating, ordering them to close at 9 p.m. daily and limit their seating capacity by up to 50 percent. Plaintiffs say it is unclear how the governor's order and mayor's restrictions apply to Oceana, whose capacity at 50 percent is 250.

"Even if the order does not apply to restaurants, plaintiffs expect that more restrictive orders may occur within the next 30 days as they have occurred in other cities around the world, including New York, where restaurants have been ordered to close and are limited to takeout and food delivery only," the complaint says.

The complaint was filed by John Houghtaling II, Jennifer Perez and Kevin Sloan of Gauthier Murphy & Houghtaling LLC in Metairie, La., and Daniel Davillier of Davillier Law Group in New Orleans.

Cajun Conti LLC, et al. v. Certain Underwriters at Lloyd's, London, et al. (La. Civ. Dist. Ct., Orleans Parish)

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