



## NORTH CAROLINA STATE COURT OPINION ON COVID-19

Many news outlets are reporting on a recent North Carolina trial court ruling, granting coverage for COVID-19-related business losses. The court specifically found that the term "direct physical loss" as used in the policy included the insured's inability to utilize or access its property due to government shut-down orders.

***Notably, this decision is not binding in any other court, including courts within North Carolina, as it is a trial court opinion. It is also likely that the carrier, Cincinnati Insurance, will appeal the decision, a process that may take several months or even years.***

Several other state and federal courts have issued opinions to the contrary, granting carriers' motions to dismiss insureds' lawsuits and holding that business interruption coverage is not applicable to the damages flowing from the COVID-19 shut-down orders. Notable examples include courts in Michigan, Florida and California.

More than 900 COVID-19 cases are pending in the United States, including both federal and state court cases in nearly every jurisdiction in various stages of litigation.

In addition, most involve policies that do not contain virus exclusions, there are lawsuits filed that challenge the validity and applicability of certain types of virus exclusion language. Little to no binding caselaw has been created thus far. However, over the next several months, we may see the extension of coverage for certain policies. When that legal authority starts to emerge, it will be heavily dependent upon the precise language of the policies as issue and may have limited applicability.

Hylant is keeping track of major opinions in key states and will provide updates on cases likely to result in the extension of coverage.

If you have any questions about this opinion and what it may mean for you, please contact your Hylant representative.

