



Grant & Eisenhofer Files Class Actions on Behalf of Restaurants, Bars and Fitness Centers Nationally that Suffered Losses Following COVID-19 Shutdowns

Suits filed in Pennsylvania federal court allege breach of contract, good faith and fair dealing; in one case, complaint states insurance company denied coverage without investigating business's claim or informing that no assistance would be forthcoming

PHILADELPHIA (Aug. 25, 2020) – Continuing its support of small businesses that have been unjustly denied insurance coverage for losses suffered due to shutdowns in response to the COVID-19 pandemic, leading plaintiffs law firm **Grant & Eisenhofer** has filed a pair of class actions against 11 insurance companies.

The suits were brought on behalf of a fitness center in Tennessee and a group of Philadelphia cafés and wine and beer bars, respectively. They were filed in U.S. District Court for the Eastern District of Pennsylvania, in Philadelphia.

Defendants include Philadelphia Indemnity Insurance Co. (PIIC), and Allianz Global Risks US Insurance Co., as well as nine of its domestic underwriting subsidiaries.

Grant & Eisenhofer's clients purchased insurance policies that indemnified them for suspension of business activities and/or the rendering of their premises as unusable – the fate of businesses nationwide as a result of shutdown orders imposed to limit the spread of coronavirus.

The filings follow a lawsuit G&E brought in June against Markel Insurance Co. for refusing to cover losses suffered by franchisees of Anytime Fitness, a chain of gyms that was shuttered in the wake of the pandemic.

“We continue to see small enterprises that purchased commercial insurance policies denied compensation for the catastrophic losses they suffered as a result of the state-imposed shutdowns of non-essential businesses,” said Grant & Eisenhofer director **Adam Gomez**.

“Regarding our clients and others in similar circumstances, their insurance companies and underwriters have shamefully evaded their contractual responsibility to cover loss of income and other unforeseen expenses resulting directly from suspension of operations due to the pandemic restrictions,” Mr. Gomez added. All of these small businesses duly and timely paid their premiums. We intend to hold their insurers – enormous national and international concerns – to their side of the contracts they signed, and to secure the financial support they paid for and deserve.”

The lawsuits seek declaratory judgments that losses suffered due to COVID-19–related shutdowns are covered by the plaintiffs' insurance policies. The suits also allege breach of contract on the part of the insurance companies as well as breach of the duty of good faith and fair dealing. Plaintiffs seek appropriate compensatory and punitive damages.

The plaintiffs seek to join with similarly situated businesses in their respective industries who have bought insurance policies offering coverage for loss of business income, and have had such coverage denied during the period of shutdown.

Tria Café Complaint

On Aug. 25 Grant & Eisenhofer filed suit on behalf of Tria Café, Alaska Café, and Tria Taproom, related businesses located in Philadelphia. Each had purchased a policy from American Automobile Insurance Co. (AAIC) that, the complaint states, “protected Plaintiffs against the actual loss of business income due to a suspension of Plaintiffs' respective operations.”

Eating establishments in Philadelphia were forced to close on March 17 on orders of the mayor, health commissioner, and state governor. At their reopening on June 5, they were allowed no more than 25 customers at a time or 25% capacity, and required to operate with an exhaustive list of restrictions to encourage social distancing and preserve customer and employee health.

The complaint states, “Contrary to the plain language of the Policies, and to AAIC’s corresponding promises and contractual obligations, on July 9, 2020, AAIC refused to pay for Plaintiffs’ respective losses and expenses under the terms of the Policies.”

David Kwass, co-owner of the Tria Group, discussed the restaurants and bars’ reasons for spearheading litigation against these insurers. “It’s common sense that if a multinational insurer collects premiums year after year, it can’t just refuse reimbursement to a customer who suffers business interruptions beyond their control. What else is business interruption insurance for? Valuing corporate profits ahead of the local folks who work in neighborhood businesses is outrageous.”

NBS Fitness Complaint

On Aug. 20 Grant & Eisenhofer filed suit on behalf of NBS Fitness, a gym in Cordova, Tenn., east of Memphis. NBS was forced to close on March 23 on the order of Gov. Bill Lee; since its May 4 reopening, NBS and other fitness centers in Tennessee have had to restrict usage of their facilities to 25% occupancy and limit the time clients spend on the premises. Gyms have also had to move equipment to accommodate social distancing, and conduct extra cleaning and disinfecting.

The Philadelphia Indemnity Insurance Co.’s denial of coverage to NSB was arbitrary and preemptory, according to the complaint: “It did so without performing a reasonable investigation into NBS’ claimed loss and without communicating its final denial of coverage in writing. Rather, NBS was informed of PIIC’s denial of its claim for coverage when NBS accessed PIIC’s online claim summary and found a message stating only that the claim had been ‘Closed – No Payment.’”

Grant & Eisenhofer director **Elizabeth Graham**, also working on the coverage cases, noted: “Insurance exists as a safety so that small businesses have a fighting chance in extreme circumstances such as we are witnessing now. For insurers to go back on their word and cut small businesses loose when they most need help is unconscionable. We intend to hold them accountable to their own contracts.”

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