

Michigan Judge Sides With Insurer In COVID-19 Lawsuit, InsuranceNewsNet, ft. David Group

David Group, KD partner, was quoted in an InsuranceNewsNet article written by John Hilton published July 6, 2020.

Circuit Court Judge Joyce Draganchuk granted the insurer's motion for summary disposition in Gavrilides Management Company v. Michigan Insurance Company. Gavrilides owns restaurants in Lansing, Mich. that were shuttered by COVID-19-related government orders.

Gavrilides pursued a \$650,000 claim based on the Gov. Gretchen Witmer shutdown orders, which both limited access to the property and reduced the restaurants' business to carry-out only. The insured sought coverage for business income and extra expense under the policy's civil authority coverage. Gavrilides did not claim that COVID was on site at the restaurants.

The policy terms were not disputed, only how those terms were to be interpreted. Draganchuk ruled that the policy required "direct physical loss of, or damage to" the building, which was not alleged in this case. The judge also considered and enforced the policy's virus exclusion, rejecting an argument that the exclusion is somehow vague, or should be inapplicable.

The legal issue of whether a government-ordered shutdown is a "loss" is at the heart of dozens of similar lawsuits across the country. By being the first decision, Judge Draganchuk's words could guide other judges, said David Group, an insurance coverage litigation partner at Kaufman Dolowich & Voluck.

The court rejected the insured's argument that a governmental order which limits access to an insured building amounts to direct physical loss, calling the argument "nonsense," Group noted.