

# Rebuilding Our Communities:

Legal Resources to Help Your Small Business

# Property Damage Resulting From the Protests: Are My Losses Covered By Insurance?

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# Agenda for Discussion

- ▶ Types of insurance that might offer coverage
- ▶ Property Insurance
  - ▶ Damage to your business
  - ▶ Business interruption and extra expense from property damage to your business
- ▶ Crime Insurance or Crime Insurance features in Property Policy
- ▶ Auto Insurance (Comprehensive)
- ▶ Other

# First Steps

- ▶ Contact your agent/broker
  - ▶ Describe what happened, ask to have a claim submitted for all insurance that might apply!
- ▶ Locate any applicable insurance policies
  - ▶ If you can't find them, your agent/broker should have them
- ▶ Photographs and other evidence
- ▶ Likely need to contact police
  - ▶ We 100% recognize the potential challenges here
    - ▶ but typically, insurance companies expect a police report if there has been any damage, loss of inventory

# Property Insurance

# Did You Suffer Property Damage Or Loss?

Typically, the insurance company “will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from a Covered Cause of Loss.”

- ▶ What constitutes direct physical loss of or damage to property?

# What Is Covered Property?

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- ▶ What is Covered Property?

# What Is A Covered Cause of Loss?

Typically, the insurance company “will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from a Covered Cause of Loss.”

- ▶ What is a Covered Cause of Loss?
- ▶ Proving cause of loss



# What Kinds Of Losses Are Covered?

- ▶ Repair or Replacement Of Property
  - ▶ Deductibles
  - ▶ Valuation
    - ▶ Actual Cash Value vs. Replacement Value
- ▶ Business Income And Extra Expense
  - ▶ Civil Authority
  - ▶ Contingent Business Income

# Will My Loss Be Excluded?

- ▶ Generally speaking, an all risk property policy should have few, if any, exclusions an insurance company might claim are applicable
- ▶ It is always important to review your policy against the facts, including all “endorsements” however
  - ▶ Specific exclusions can be added, and policy terms can be changed in the “back half” of the policy
- ▶ Depending on the Policy, insurance companies may attempt to claim some exclusions but keep in mind:
  - ▶ Reservations of Rights are common, but
  - ▶ If the insurance company is going to rely on an exclusion, the insurance company bears the burden of proving that the exclusion applies to your loss

# Notifying Your Insurance Carrier

- ▶ Notice is important for a variety of reasons, including
  - ▶ Starting a claim
    - ▶ Pay attention to policy periods
  - ▶ Protecting property from further loss
  - ▶ Getting adjusters on-site
- ▶ In Minnesota, typically notice to your broker is notice to the insurance company
  - ▶ We recommend making sure that the broker has provided notice as required by the Policy
  - ▶ If you haven't seen the notice, send the notice!

# Documenting Your Losses

- ▶ Collecting evidence up front
- ▶ Keeping records
  - ▶ What is damaged (and what it cost)
  - ▶ What is lost (and what it cost)
  - ▶ Any expenses in protecting property, temporary fixes
  - ▶ Business losses or disruption
- ▶ Pre-COVID-19 business vs. the post COVID-19 business
- ▶ Policies, applications, underwriting and emails

# What The Heck Is A Proof Of Loss?

- ▶ Policies typically require a “proof of loss” |
  - ▶ It is a written, signed (sometimes sworn) document that describes
    - ▶ The details of the events causing the loss and
    - ▶ The totals of the loss
  - ▶ Proof of loss may require submitting supporting documents or evidence
  - ▶ Read your policy to make sure that your proof of loss
    - ▶ Includes everything required by the policy
    - ▶ Is submitted on time (you can typically ask for more time)

# The Claims Process – What To Expect

- ▶ Typical steps in the process
- ▶ Sworn statement
- ▶ “Appraisal”
- ▶ Timelines and claims handling requirements
  - ▶ Department of Commerce

# Other Insurance

- ▶ Crime Insurance
- ▶ Automobile Insurance
- ▶ Other types of losses and claims

# Questions?



# Upcoming Webinars

- ▶ Tuesday June 16, 2020: 2:00 – 3:30 p.m. Lender Financing, Land Use, Grant and Aid programs
- ▶ Presenters will discuss negotiating existing bank loan and equipment leasing issues as to defaults, re-setting payment terms, and coordinating with insurance policy recoveries as to cash flow sources; community funding resources; and city approvals required to re-build.
- ▶ \_\_\_\_\_
- ▶ Wednesday June 17, 2020: 2:00 – 3:00 p.m. Real Estate and Leasing, Supply Chain Issues
- ▶ Presenters will discuss key leasing provisions related to repair and replacement obligations, payment of rent, termination rights, insurance considerations and others that will aid both parties in determining their legal rights and obligations moving forward. We will also touch on similar issues relating to supply contracts.
- ▶ \_\_\_\_\_
- ▶ Thursday June 18, 2020: 2:00 – 3:00 p.m. Construction
- ▶ Presenters will discuss key issues to consider when planning for rebuilding, precautions regarding contractors, and tips to manage the process.
- ▶ \_\_\_\_\_
- ▶ Friday June 19, 2020: 2:00 – 3:00 p.m. Wrap-Up Session Based Upon Questions Submitted throughout the week

# Need Help? Contact Us For Pro Bono Assistance!

Team Member	Area of Expertise	Contact Information
Skip Durocher	Insurance	<a href="mailto:durocher.skip@dorsey.com">durocher.skip@dorsey.com</a>
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Look for materials from upcoming webinars to find Team Members for other Areas of Expertise!

Questions can also be submitted by contacting Dorsey Pro Bono Counsel Alysia Zens at [zens.alyasia@dorsey.com](mailto:zens.alyasia@dorsey.com) or 612-752-7333.

In addition to the information above, if you need legal assistance with business law needs, LegalCORPS client intake lines are available for small business owners and nonprofits in Minnesota, by calling 612-752-6687. The intake line will be staffed Monday through Friday from 9:00 a.m. to 4:00 p.m.