

COVID COVERAGE AND BUSINESS INTERRUPTION

DAB Dental PLLC d/b/a Sunshine Dentistry v. Main Street American Protection Insurance Co.

Motion to Dismiss Granted with Prejudice



LUKS, SANTANIELLO
— PETRILLO & COHEN —

Vicki L. Lambert
Managing Partner | Orlando

Daniel S. Weinger
Junior Partner | Fort Lauderdale

The firm's COVID Coverage team of Partner Vicki Lambert, Esq., and Appellate Partner Daniel Weinger, Esq., prevailed in a Declaratory Judgment Action brought by an insured for Civil Authority coverage pursuant to a Business Owners Policy with Business Interruption and Extra Expense coverage.

The matter, *DAB Dental PLLC d/b/a Sunshine Dentistry v. Main Street American Protection Insurance Co.* arises out of Florida's Hillsborough County (Tampa). The Plaintiff contended that coverage was triggered due to the Governor's Stay at Home Order, which closed their dental practice, under the Civil Authority portion of the policy. The Court found that a plain reading of the Policy contradicted the Plaintiff's position. Further, that the Civil Authority provision requires direct physical loss or damage, and Florida law supports a legal conclusion that the mere presence of COVID-19 on business premises does not constitute direct physical loss or damage. Without such, there is no covered cause of loss. Even if the Plaintiff's allegations established coverage, the Virus Exclusion applies to preclude coverage. The Plaintiff's Complaint for Breach of Contract and Declaratory Action was dismissed with prejudice.

Vicki L. Lambert

☎ (407) 540-9174

✉ VLambert@insurancedefense.net

Daniel S. Weinger

☎ 954-847-2924

✉ DWeinger@insurancedefense.net



LUKS, SANTANIELLO
— PETRILLO & COHEN —