

ALERT

## April Is 'Email Your Insurance Broker' Month

By Allen R. Wolff

**G**et ready to give notice to your insurance in April. If you are an insurance broker, you're going to be busy. Here is a brief explanation and five reasons why policyholders should put their insurance on notice now.

April is the big month because most COVID-19 losses commenced in March. After taking necessary precautions and other immediate actions following the coronavirus outbreak, then following orders to shut down nonessential businesses, policyholders are now assessing their business options and making insurance claims. Many will feel obligated to make claims now because of policy provisions that demand notice be given within an abbreviated timeframe following a loss. But **everyone** should do so and here are five reasons why:

### 1. Disclaimer of pre-notice losses.

Some insurance companies may seek to disclaim losses that arose before notice was given. This position is commonly taken by insurance companies, even when they agree to cover a claim. Pre-notice losses are easy discounts that insurance companies readily take.

### 2. Late notice could be fatal to your claim.

Some laws permit an insurance company to deny coverage if notice is given late. The effect is extreme and many states have softened the impact of such a rule. But if the problem can be avoided now by early notice, why not do it?

### 3. What do you have to lose?

Worried the insurance company will raise your rates at next renewal? Sorry, that's going to happen anyway. The insurance companies are about to get hit hard. Rates will likely go up no matter what you do. The initial claim will probably be denied. But the final answer may be very different, and once coverage is established, it will probably be retroactive to the date of notice. Trust me when I tell you that insurance coverage lawyers are working hard to develop solutions for businesses to obtain insurance coverage for their losses.

### 4. Imperfect notice is better than no notice.

The consequences of giving prompt but imperfect notice are usually less harmful than giving no notice at all. In circumstances where late

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notice can be used to deny coverage, a timely but imperfect notice can save a claim.

### 5. All the other kids are doing it.

Grow the herd. A mass outpouring of policyholders will make it impossible to ignore this insurance coverage crisis.

These days, many insurance industry advocates are saying that COVID-19 does not constitute loss or physical damage to property. Ask yourself this:

- **Is COVID-19 physical?** Yes, you can see the virus with a microscope.
- **Does it cause damage?** Yes, it requires the additional expenditure of money and it interferes with the ability to earn money. COVID-19 may not cause destruction, but it clearly causes damage.

So send an email and tell your broker to notify all your relevant and potentially responsive insurance that you have suffered and continue to suffer losses and/or property damage as a result of COVID-19 and the orders affecting nonessential businesses.

**Give notice. Now!** ▲

This was prepared by Anderson Kill P.C. to provide information of interest to readers. Distribution of this publication does not establish an attorney-client relationship or provide legal advice. Prior results do not guarantee a similar outcome. Future developments may supersede this information. We invite you to contact the editor, Mark Garbowski at [mgarbowski@andersonkill.com](mailto:mgarbowski@andersonkill.com) or (212) 278-1169, with any questions.

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