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Dear Clients, Friends and Colleagues:

In the midst of the global pandemic, there is hardly a business (or person) that has not been affected in a monumental and unprecedented way. Many of our lives have come to a screeching halt as we search for ways to keep our businesses afloat. While the CARES Act provides helpful loan programs and tax benefits, for many of us this is nothing more than a Band-Aid. Many of our clients have consulted with us hoping to find relief through their Business Interruption insurance policies, however, insurers are denying coverage universally paving the way for a myriad of intense litigation. Fortunately, our law firm, Gerstman Schwartz LLP, along with our lobbying arm, Gotham Government Relations & Communications, are uniquely qualified to navigate this difficult terrain and help your business in this fight.

Although these claims could be difficult to win, the good news is that there are cases that may support your entitlement to Business Interruption Insurance for losses caused by the COVID-19 pandemic based on certain extensions in your policy and/or under a variety of circumstances including when the losses were caused by the *threat* of loss as opposed to *actual* loss itself.

Certain actions taken by both the State and City governments might also make these claims easier. For example, New York City Executive Order 100 states that COVID-19 “physically is causing property loss and damage.” This opens the door to a host of good faith arguments that the “direct physical loss or damage” requirement contained in most Business Interruption policies is satisfied triggering coverage. New York State has also proposed legislation seeking to compel insurance companies to approve Business Interruption coverage claims irrespective of “direct physical loss or damage” and otherwise relevant virus/microbe exclusions.

Nevertheless, there is still much uncertainty about the future of this coverage. It is therefore imperative that insureds preserve their rights by filing claims promptly and in accordance with their policies' particular notice provisions, while retaining written confirmation that the carrier received such notice.

Gerstman Schwartz LLP and Gotham Government Relations & Communications remain ready, willing and able to assist you through every step of the process. Contact us now if you want to understand how your particular policy is affected or if you need any other assistance.

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