

## Complete Cessation of Business Required For Business Interruption Claims

MAY 2020

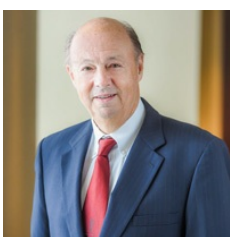
Ohio now defines "necessary suspension" to require complete shutdown of all business activities to trigger lost business income coverage. [\*Hastings Mut. Ins. Co. v. Mengel Dairy Farms, LLC\*](#), U.S.D.C., N.D., Case No. 5:19CV1728. In a case of first impression in Ohio, with potentially wide application to COVID-19 business interruption claims, Weston Hurd's [\*Randy Taylor\*](#) and [\*Ron Rispo\*](#) secured a favorable ruling regarding the undefined term "necessary suspension", as it relates to a claim of lost business income coverage under an insurance policy.



The insurer argued that business interruption coverage, for lost income, is only triggered by a complete shutdown or cessation of all business activity. The insured argued that a mere reduction in operations is sufficient to trigger said coverage. As Ohio had yet to address the issue, the Court reviewed nationwide case law, cited by the parties, in finding the insurer's position to be persuasive.

This decision has the potential to apply to the growing tide of COVID-19 business interruption claims, given that many insurance policies do not include a definition for the terms "necessary suspension". So, for example, if a restaurant closed its dining room, due to the COVID-19 pandemic, but still served customers via "take out" or "delivery orders", then the logic of this decision, if applied to those facts, would support a finding that there has not been a complete "cessation" of business activities. This would result in a failure to satisfy the typical policy's requirement of a "necessary suspension" such that coverage for loss of business income would not be triggered. Of course, if the policy language is different and allows for a partial suspension of business, then the outcome may be different as well.

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