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## Fla. Restaurants Sue Lloyd's For COVID-19 Coverage

By Joyce Hanson

Law360 (April 10, 2020, 6:34 PM EDT) -- A Florida restaurant group has hit Lloyd's underwriters preemptively for COVID-19 insurance coverage in a proposed class action, telling a Florida federal court the insurers have cashed in on policy premiums but don't intend to pay policyholders for income they've lost because of the pandemic.

The El Novillo Restaurant group, which has two eateries in Miami and Hialeah, urged the court in its suit filed Thursday to declare that governments' stay-at-home orders to stop the spread of the coronavirus have caused catastrophic business disruptions and must trigger coverage under holders' all-risk commercial property insurance policies.

"The underwriter defendants, and most insurance companies who have issued all-risk commercial property insurance policies with business interruption coverage, are denying the obligation to pay for business income losses and other covered expenses incurred by policyholders for the physical loss and damage to the insured property from measures put in place by the civil authorities to stop the spread of COVID-19 among the population," according to the complaint.

El Novillo's proposed class action is brought against certain Lloyd's of London underwriters and syndicates known as XLC 2003, AFB 2623, AFB 263, BRT 2987, BRT2988, WRB 1967 and MSP 318. The suit seeks a declaratory judgment affirming that the pandemic has already caused property loss and damage and may cause future civil authority orders resulting in shuttered businesses, along with a finding that the underwriter defendants are liable for losses suffered by policyholders.

A similar suit was **filed in Texas federal court** April 3, with a theater owner taking a group of Lloyd's of London underwriters to court after the insurers said they would not pay out on a \$1 million policy for shutdowns resulting from COVID-19, claiming the denial flies in the face of a "pandemic event endorsement" in the policy that specifically covers coronavirus-related disease.

SCGM Inc., which owns a group of theaters including Star Cinema Grill and Hollywood Palms Cinema, said in its complaint that it went out of its way to get the endorsement in the policy, and paid a premium for it, because of the catastrophic effect a pandemic would have on its business.

The El Novillo plaintiffs in Florida anticipate that the Lloyd's entities will breach their contractual obligations under common all-risk commercial property insurance policies. They seek a declaratory judgment on behalf of the El Novillo restaurants as well as all proposed class members that the policies don't contain an exclusion for a viral pandemic.

According to the proposed class action — which focuses especially on non-essential hospitality businesses like restaurants, bars, hotels and entertainment venues that are suffering catastrophic losses — the insurance industry has been advising insurance commissioners around the country that it doesn't intend to provide coronavirus coverage, even though policies vary widely and must be considered on a case-by-case basis.

The proposed class is defined as all entities suffering COVID-19-related losses that have entered into standard all-risk commercial property insurance policies with the underwriter defendants, and

whose policies don't exclude pandemic coverage.

A lawyer for El Novillo, Benjamin Widlanski of Kozyak Tropin & Throckmorton LLP, told Law360 on Friday that he hopes to convince the court that the insurance industry has embarked on a "disinformation campaign" designed to convince the public that the United States' virus-related business interruption is not a covered event.

"People buy insurance precisely to protect themselves from unforeseen and disastrous events. Events like this," Widlanski wrote in an email. "It's hard to contemplate a situation where the payment of business interruption insurance claims is more appropriate."

A representative for Lloyd's declined to comment Friday, saying it is not able to comment on active court proceedings.

El Novillo Restaurant is represented by Harley S. Tropin, Benjamin Widlanski, Gail A. McQuilkin, Javier A. Lopez and Robert Neary of Kozyak Tropin & Throckmorton LLP.

Counsel information for the underwriters was unavailable.

The case is El Novillo Restaurant et al. v. Certain Underwriters At Lloyd's London et al., case number 1:20-cv-21525, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Mike Curley. Editing by Kelly Duncan.