

# Businesses Urge New MDL Over Virus Interruption Coverage

By [Matt Fair](#)

Law360 (April 20, 2020, 8:49 PM EDT) -- A pair of businesses suing for insurance coverage after they were forced to close their doors as a result of the spreading COVID-19 pandemic pressed Monday for a new federal multidistrict litigation program to consolidate the growing number of similar cases sprouting up nationwide.

Newchops Restaurant [Comcast LLC](#) and LH Dining LLC told the U.S. Judicial Panel on Multidistrict Litigation that the availability of business interruption insurance in light of the novel coronavirus would be a key question requiring a uniform answer as the country deals with the economic fallout of the pandemic.

“This issue — whether business interruption insurance policies will cover losses incurred by businesses forced to shutter their business as a result of the governmental orders — is one of national importance and great significance to the ultimate survival of many businesses,” the petitioners said. “Addressing this issue in a uniform manner as opposed to potentially disparate treatment by different courts throughout the country helps to serve one of the main purposes” of multidistrict litigation.

The petition pointed to nearly a dozen lawsuits filed from coast to coast in which businesses have sought declarations that they were entitled to coverage for loss of income when they were forced to close up shop as a result of orders from state and local authorities shuttering certain nonessential businesses.

LH Dining, which operates under the name River Twice in South Philadelphia, filed suit earlier this month claiming that it was entitled to coverage from [Admiral Insurance Co.](#) under a provision related to loss of income when access to its property was barred by order of a “civil authority.”

Newchops, which operates under the name Chops from a location in the Comcast Center in Center City Philadelphia, filed a similar suit against Admiral on Friday.

LH and Newchops argued that orders from both Philadelphia's mayor and Pennsylvania's governor requiring nonessential businesses to shut down constituted the exact kind of "civil authority" action contemplated under their policies.

Instead, the companies suggested that Admiral would attempt to deny coverage in reliance on policy provisions excluding losses related to virus and bacteria.

In addition to their cases against Admiral, however, the petition with the JPML on Monday said it hoped to consolidate cases against other insurers as well, including Society Insurance Inc., Lloyd's of London and Owners Insurance Co.

"Much like River Twice and Chops, and the plaintiffs in the other actions, businesses across the nation, in all industries, will be seeking coverage for losses under their business interruption policies," the petition said. "While some actions may contain various causes of action such as breach of contract or bad faith insurance practices, they all ultimately share, and will share, the key core factual question: Do the governmental orders trigger coverage under the business interruption insurance policies," and do any exclusions, particularly those related to viruses or pandemics, apply?

Richard Golomb, an attorney with [Golomb & Honik PC](#) representing Newchops and LH Dining, told Law360 that answering the coverage questions as quickly and with as little disparate treatment as possible would be key to helping businesses get back to normal.

"This litigation is obviously of national interest that ultimately will affect thousands upon thousands of small businesses and millions of workers," he said. "It requires a coordinated effort by all involved to resolve this as quickly and fairly as possible. Multidistrict litigation will best be able to serve that purpose."

The petition asked that cases be consolidated before a judge in the Eastern District of Pennsylvania.

Representatives for the insurers did not immediately respond to messages seeking comment.

The petitioners are represented by Richard Golomb and Kenneth Grunfeld of Golomb & Honik PC, and Arnold Levin, Frederick Longer and Daniel Levin of [Levin Sedran & Berman](#)

[LLP.](#)

Counsel information for the respondents was not immediately available.

In re: COVID-19 Business Interruption Insurance Coverage Litigation, case pending No. 90,  
before the U.S. Judicial Panel on Multidistrict Litigation.

--Editing by John Campbell.