

Saxe Doernberger & Vita, P.C. (SDV) files Amicus Brief in Support of Policyholders Nationwide

NEW JERSEY (December 1, 2021) – Many jurisdictions recognize that commercial property insurance covers direct physical loss or damage to property that has not suffered structural damage. Yet many insurers have denied coverage for COVID-19 business interruption claims made under commercial property policies, and courts have too often dismissed the insureds' claims in litigation, denying them the opportunity even to submit their proof. In an Amicus Brief filed in the United States Court of Appeals for the Third Circuit, Saxe Doernberger & Vita, P.C. (SDV) argued that insureds deserve an opportunity to prove their claims and not be denied coverage without the chance to litigate an insurer's coverage decision.

SDV is at the forefront of policy interpretation issues and filed the brief as an advocate for policyholders nationwide. The outcome on appeal in *1 S.A.N.T., Inc. v. National Fire & Marine Insurance Company*, 513 F.Supp.3d 623 (W.D.Pa. 2021) and the related consolidated cases could significantly impact rulings in future business interruption cases for commercial property owners, homeowners, and retail businesses.

Prior to recent COVID-19-related decisions, case law construing the phrase "direct physical loss or damage" was consistent with the broad goals of all-risk property coverage, which was designed to cover fortuitous property loss but not inherent vice or legal loss such as foreclosure. Recent COVID-19 decisions requiring

structural loss or physical alteration to covered property threaten to upset coverage law that had been otherwise settled for over a generation. SDV filed its Amicus Brief in the Third Circuit to oppose this threat. SDV represents clients in multiple industries, including real estate, hospitality, insurance broker support, construction, and franchised businesses. SDV also works closely with risk managers, CFOs, in-house counsel, and other corporate leaders to resolve insurance conflicts quickly and effectively. SDV is dedicated to advocating on behalf of policyholders to ensure their interests are represented – and protected – in connection with the Third Circuit's ruling. In addition, SDV aims to hold insurers accountable and ensure the court's decision is consistent with case law precedent.