Texas Judge Upholds COVID-19 Business Interruption Lawsuit By Cinemark Holdings

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A Texas federal judge upheld a lawsuit brought against the insurance company Factory Mutual Global Insurance Co. by Cinemark Holdings Inc., the nation?s third-largest chain of movie theaters. The ruling is a rare victory that signals positive tidings for policyholders all across the country.

According to a Bloomberg article from December 2020, Cinemark Holdings Inc. sued its insurance to cover $400 million in losses and legal expenses. The losses were attributed to the slump in the overall entertainment industry owing to the lockdowns and restrictions in the wake of the COVID-19 pandemic. According to the latest report by the Claims Journal, an online publication that keeps readers updated with developments in the insurance industry, the U.S. District Court Judge from Sherman, Texas, Amos L. Mazzant found that Cinemark Holdings was right in its plea that the coronavirus wreaked havoc on its properties and caused significant damage to the business.

The policy from the insurance company FM Global promised to cover up to $500 million in damages from ?all risks of physical loss or damage? which it reneged upon. The insurance company argued that Cinemark had not proven actual structural alteration which is required to constitute a direct physical loss to its property. FM Global went on to say that its policy coverage excluded damages caused by ?contamination?. According to the dismissal motion for summary judgment that the insurance company filed against Cinemark on March 30, 2021, while the specific inclusion of coverage for ?communicable diseases? may create an exception to the exclusion, a sub-limit in the policy limits coverage to $1 million.

A community blogger on the Ward Maedgen Accident Attorneys blog commented on the ruling by saying, ?Though by no means a victory for the small guy, given the size and reach of Cinemark Holdings, the ruling still instills confidence in the hearts and minds of the millions of policyholders all across the nation that are happy to see justice prevail. Cinemark was well within its rights to legally demand the damages that it is owed from FM Global and the ruling from Judge Mazzant validates that. We will keep a close eye on further developments in the story but for now, you can rest assured that the justice system is working as it was designed to be. This could mean more victories for other similar claims in the near future.?

According to the Claims Journal, the decision from the Texas court breaks a month?s-long losing streak for policyholders seeking cover income lost because of pandemic-related restrictions. According to a litigation tracker maintained by the University of Pennsylvania?s Carey Law School, Judge Mazzant?s ruling was the first of any state or federal judge since March 31 2021 that rejected in whole an insurer?s motion to dismiss a COVID-19 business interruption lawsuit.

An older claim brought by Selery Fulfillment, a property owner, was dismissed by the Eastern District of Texas in March. The result of that dismissal had legal watchdogs worried about the end result of the case brought on by the plaintiff of the current case, Cinemark Holdings. After the ruling in favor of Cinemark, Judge Mazzant said in his opinion that the facts in the case brought on by them were very different from the COVID-19 claim brought on by Selery Fulfillment. He said that the latter had made no allegation that the virus was actually present on its premises. Judge Mazzant went on to write in his opinion that ?Cinemark?s policy is much broader than the one in Selery and expressly covers loss and damage caused by ?communicable disease?. Both parties agree ?communicable disease? encompasses COVID-19. At this stage of the proceedings, Selery is distinguishable.?

Cinemark is headquartered in Plano, Texas, and it operates 332 theaters with 4,522 screens in 42 states and an additional 200 theaters in 17 other countries.

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