

Metal Fabricator Says Insurer Must Cover COVID-19 Damages

By [Sarah Martinson](#)

Law360 (April 21, 2020, 9:54 PM EDT) -- A Pennsylvania-based metal fabricator that does work for the U.S. military hit its insurer with a suit seeking coverage for being forced to close as a result of COVID-19, arguing the damages are covered under its policy.

C.A. Spalding Co. said Monday the business losses it has incurred from a statewide government-mandated shutdown of "nonessential" businesses in Pennsylvania are covered under the "Civil Authority" clause in its contract with [Selective Insurance Group Inc.](#)

The policy states that business losses caused by a civil authority order banning the policyholder from accessing the insured property are covered under the clause, C.A. Spalding said.

Pennsylvania Gov. Tom Wolf's order forcing all nonessential businesses in the state to close is a civil authority order that prohibited C.A. Spalding from accessing its property covered under Selective Insurance's policy, according to the lawsuit.

"Any effort by the defendant to deny the reality that the virus causes physical loss and damage would constitute a false and potentially fraudulent misrepresentation that could endanger the plaintiff and the public," C.A. Spalding said.

The metal fabricator also argues its claims are supported by an April 17 decision from the [Pennsylvania Supreme Court](#) in a case where business owners were seeking to invalidate Wolf's order for nonessential businesses to close during the pandemic.

The high court found that the coronavirus pandemic qualifies as a natural disaster that causes physical losses covered by property insurance.

C.A. Spalding's attorney, Richard Golomb, told Law360 in a Tuesday statement that his client's suit is "the third of many lawsuits we will be filing on behalf of our clients — all of which are small-business owners."

Golomb said that on Monday he also filed a petition with the U.S. Judicial Panel on Multidistrict Litigation on behalf of two restaurants that were forced to close their doors as a result of the coronavirus outbreak.

Newchops Restaurant [Comcast LLC](#) and LH Dining LLC [asked the panel](#) to consolidate the growing number of coronavirus-related insurance coverage suits sprouting up nationwide into one multidistrict litigation case.

The other suits include claims by [a Chicago restaurant](#), a group of [Chicago movie theater and restaurant owners](#), a [D.C. restaurant](#), an Illinois [dental clinic](#), a [nonprofit professional theater](#) in Indiana, a Florida [sports bar](#), a scuba shop in the [Florida Keys](#) and a group of [Texas movie theaters](#).

Golomb said there "will undoubtedly be thousands and thousands of cases" filed by businesses seeking coverage for losses caused by the outbreak.

A representative for Selective Insurance did not respond to a request for comment Tuesday.

C.A. Spalding is represented by Arnold Levin, Laurence S. Berman, Frederick Longer and Daniel Levin of [Levin Sedran & Berman LLP](#) and Richard M. Golomb and Kenneth J. Grunfeld of [Golomb & Honik PC](#).

Counsel information for Selective Insurance could not be immediately determined Tuesday.

The case is C.A. Spalding Co. v. Selective Insurance Group Inc. et al., case number [2:20-cv-01967](#), in the [U.S. District Court for the Eastern District of Pennsylvania](#).

--Additional reporting by Mike Curley and Matt Fair. Editing by Janice Carter Brown.