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Arizona Federal District Court Holds COVID-19 Does Not Fall Within Pollution Liability Policy's Coverage

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Judge G. Murray Snow of the U.S. District Court for Arizona recently ruled in favor of Illinois National Insurance Company on the issue of whether COVID-19 should be considered a type of pollution for the purposes of a "Premises Pollution Liability Insurance Policy."

Plaintiff London Bridge Resort LLC sought coverage under its pollution policy issued by Illinois National for the resort's loss of revenue arising out of the COVID-19 outbreak. The resort argued that COVID-19 should be considered covered pollution because some government agencies include "virus" in their definition of pollutants.

Illinois National responded that a virus outbreak does not fall within the category of pollution covered by the pollution policy, as opposed to covered pollutants like smoke, soot, vapors, fumes, acids, alkalis, chemicals and other similar matter.

Judge Snow agreed with Illinois National and held that even if COVID-19 could be considered a "pollutant" under certain circumstances, it is not a type of "traditional environmental pollution" which the pollution policy covered.

The key takeaway from this case is that the particular definition of "pollutant" or "contaminant" in an insurance policy will likely determine whether coverage exists for a COVID-19 claim. This applies not only to pollution policies like the one at issue in this case, but policies with pollution exclusions as well.

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