

Law360: Calif. Panel Revives Real Estate Firm's COVID Coverage Suit

A California state appellate court partially revived a real estate investment firm's bid to recover from its insurers up to \$250 million in pandemic-related lost income, finding Monday the company plausibly argued the physical presence of the virus caused its losses. JRK Property Holdings Inc.'s claims that COVID-19 physically altered the air and surfaces of its properties were enough to show "direct physical loss or damage" required to trigger coverage and defeat the insurers' motion for judgment on the pleadings, a three-justice panel wrote .

When a trial court sustained the underlying motion in May 2022, the

on COVID-19 pandemic property insurance coverage was *Inns by the Sea v.*

., which found a hotel owner could not get business interruption coverage because its losses were caused by government orders instead of "direct physical loss of or damage to" its property, according to the opinion.

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Meredith Elkins, counsel for JRK, said her client is looking forward to conducting discovery and proving its case before the lower court.

"JRK is obviously very happy with the decision," Elkins said. "It was good to see the court acknowledge that, while there were some negative decisions in California early on, there's recently been a lot of well-reasoned decisions reversing dismissal orders and allowing cases to move forward."

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