

Law360: NY High Court Takes Up COVID-19 Coverage Appeal

Law360 (November 17, 2022, 9:05 PM EST) — New York’s highest court agreed to take on a COVID-19 coverage appeal from a restaurant operator arguing that a lower court established a so-called tangible-alteration test that has no support from any top court decision.

On Thursday, the New York Court of Appeals granted Consolidated Restaurant Operations Inc. leave to appeal the First Judicial Department’s decision affirming dismissal of the company’s complaint against Swiss Re subsidiary Westport Insurance Corp.

CRO’s suit asserted that the presence of the coronavirus on restaurant premises can cause physical loss or damage requiring coverage.

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