

Minor League Teams Sue For Coverage Of Canceled Season

By **Mike Curley**

Law360 (July 2, 2020, 4:53 PM EDT) -- Several Minor League Baseball teams are suing their insurers over coverage of the loss of income after their season was canceled, alleging they have been wrongfully denied coverage under their policies.

The suit, filed Thursday in New Jersey federal court by the owners of the Everett AquaSox, Asheville Tourists and West Michigan Whitecaps, stems from a larger case filed June 23 in Pennsylvania by 15 teams against five insurance companies, which was voluntarily dismissed earlier Thursday.

In the New Jersey suit, the teams allege Arch Insurance Co., which covers the AquaSox and Tourists, and Federal Insurance Co., which covers the Whitecaps, have wrongfully denied, or likely will deny, coverage under the business interruption and income loss policies they hold.

"The insurers have failed to meet their obligations, thereby placing the teams in serious risk of economic failure and jeopardizing the future of America's pastime as we know it," the teams told the court.

According to the complaint, Minor League Baseball teams depend almost entirely on playing games and drawing fans for their income but have substantial fixed costs, such as the leases they pay on stadiums, and salaries of year-round employees that administrate the teams.

The teams blame the COVID-19 pandemic, the government response to it, and Major League Baseball's decision not to send any players to the Minor League for the loss of their season, saying the insurance policies the teams obtained should provide coverage for those losses.

Earlier on Thursday, the 15 teams that had sued their five insurance carriers dropped their suit from the Eastern District of Pennsylvania, with their attorney saying they were refiled the case as individual suits against single insurers or groups of affiliated insurers.

In that suit, the teams made claims against units of Tokio Marine Holdings Inc., Nationwide and W.R. Berkley Corp., asserting they are owed coverage under their business interruption policies for the mounting losses they have incurred since the pandemic halted their operations.

Another suit stemming from the dropped Pennsylvania case was filed Thursday in Arizona federal court. In that case, nearly 20 teams and their concessions companies filed suit against three units of Nationwide, making the same allegations — that the insurers had wrongfully denied coverage of their

losses stemming from the cancellation of the season.

The new complaints come two days after Major League Baseball announced it would not be providing players to the Minor League teams, canceling the 2020 season citing the "unprecedented" times the country is currently experiencing related to the pandemic. Major League Baseball will play a shortened, 60-game season beginning this month, according to media reports.

"Chubb is concerned about all of our policyholders impacted by the pandemic, including the thousands of small businesses forced to close by government actions," a spokesperson for Chubb, which owns Federal Insurance, said in a statement to Law360 Thursday.

"We are currently paying claims for pandemic-related losses in workers' compensation, travel insurance, credit-related products as well as certain business interruption coverage where direct physical loss to the property is not required," the spokesperson said. "The vast majority of policies, however, do not cover business interruption from pandemic risk, which would create infinite exposure for the insurance industry if applied to all policies. Creating false expectations about coverage that does not exist, including filing baseless lawsuits, will not solve this crisis."

An attorney for the teams declined to comment Thursday.

Representatives for the other insurance companies could not immediately be reached for comment Thursday.

The teams are represented by Andrew L. Sandler, Stephen M. LeBlanc and Rebecca Guiterman of Mitchell Sandler LLC and Robin Cohen, John Briody and Patrick Pijls of McKool Smith PC.

Counsel information for the insurance companies was not available.

The New Jersey case is 7th Inning Stretch LLC d/b/a Everett AquaSox et al. v. Arch Insurance Co., case number 2:20-cv-08161, in the U.S. District Court for the District of New Jersey.

The Arizona case is Chattanooga Professional Baseball LLC d/b/a Chattanooga Lookouts et al. v. National Casualty Co. et al., case number unavailable, in the U.S. District Court for the District of Arizona.

--Additional reporting by Jeff Sistrunk. Editing by Janice Carter Brown.