

Yanks' Farm Team Takes Swing At Insurer For Virus Coverage

By **Mike Curley**

Law360 (July 7, 2020, 1:47 PM EDT) -- Three minor league baseball teams, including one attached to the New York Yankees, are taking Philadelphia Indemnity Insurance Co. to Pennsylvania state court, alleging the company has wrongly denied them coverage for the losses they stand to suffer because of the season's cancellation.

Nostalgic Partners, which owns the Staten Island Yankees, Greenville Drive LLC, which owns the team of the same name, and 7th Inning Stretch, which owns the Delmarva Shorebirds, told the Philadelphia Court of Common Pleas on Thursday that their revenue is almost entirely based on drawing fans to watch games, but they still have fixed yearly costs.

"With no players, no games and no fans, the teams' losses of business income for the 2020 MiLB baseball season have been near total," the teams said. "With virtually no source of income, and accruing expenses, the teams face catastrophic financial losses."

According to the complaint, the losses stem from health concerns over the COVID-19 pandemic, the governmental response to the pandemic and Major League Baseball's recent decision not to give any players to the minor league teams, canceling the 2020 season. MLB will play a shortened, 60-game season beginning this month, according to media reports.

The fixed costs include year-round employees involved in the administration of the teams and leases on stadiums, with the average minor league club incurring costs of \$2 million over the course of a year even if they play no games, according to the complaint.

The teams told the court that the policies should cover losses stemming from the pandemic, saying that the health concerns constitute a physical loss of their facilities, and that the virus exclusions included in two of the three policies at issue are unenforceable. The Staten Island Yankees' policy does not have that exclusion, according to the complaint.

The teams made claims for breach of contract and declaratory judgment, asking the court to determine that Philadelphia Indemnity was wrong to deny coverage and to award additional damages beyond what they're owed on the policies.

This suit stems from another larger action filed in June, in which 15 teams sued five insurers making similar allegations that they had been denied coverage for the loss of the season. Last week, the federal

judge assigned to that suit ordered the teams to break it up and file their claims individually.

On Thursday, the first of those suits was filed in federal courts in New Jersey and Arizona, and Andrew L. Sandler of Mitchell Sandler LLC, representing the teams, said he plans to file additional, similar actions in the coming weeks.

Representatives for Philadelphia Indemnity could not immediately be reached for comment Tuesday.

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

Counsel information for Philadelphia Indemnity was not available.

The case is Nostalgic Partners LLC d/b/a Staten Island Yankees et al. v. Philadelphia Indemnity Insurance Co., case number 200700054, in the Philadelphia Court of Common Pleas.

--Additional reporting by Jeff Sistrunk. Editing by Orlando Lorenzo.