

NEWS

Judge says Primavista's case against insurer over COVID-19 losses can proceed

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A Hamilton County judge has allowed a lawsuit to proceed against an insurance company that denied coverage to the restaurant Primavista for losses caused by the pandemic.

The ruling helps pave the way for other restaurants that lost money because of the coronavirus pandemic to pursue litigation against insurers who denied their claims.

Primavista's lawsuit was filed in May, two months after Ohio Gov. Mike DeWine declared a state of emergency, closing many businesses. The lawsuit said the restaurant's insurer, the Cincinnati Insurance Co., refused to cover losses caused by the governor's order.

Primavista had to lay off staff, and the lawsuit said its existence was threatened.

Cincinnati Insurance sought to dismiss the lawsuit, arguing that there was no actual property damage, a threshold for coverage under Primavista's policy.

But Common Pleas Judge Thomas Beridon ruled earlier this month that determining whether the pandemic or the governor's orders caused property damage was a question of fact.

"As such, a reasonable jury could find that Primavista was entitled to coverage," Beridon said in his ruling.

One of Primavista's attorneys, Steve Wolterman, called Beridon's ruling "very significant."

The East Price Hill restaurant eventually reopened in a limited capacity.

"The restaurant industry is limping along as outdoor seating options are limited, restrictions on indoor dining are onerous, and much of the public is fearful of eating out," Primavista's attorneys say in recently filed court documents. "Every week that goes by on the litigation

calendar is another week that payroll must be met and bills must be paid – without the benefit of the insurance Primavista bargained for and paid for.”

Primavista's attorneys say the policy covered losses due to the suspension of operations and for expenses incurred to minimize the suspension. There was no coverage limit for loss from viruses or pandemics, they say.

A similar lawsuit against Cincinnati Insurance filed by the Taste of Belgium chain also is pending in Hamilton County Common Pleas Court.