

From the Puget Sound Business Journal:

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Federal court groups 35 small business lawsuits related to Covid-19 losses

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The Western Washington federal court has related nearly three dozen lawsuits in which Seattle-area small businesses are suing their insurance companies for denying coverage of Covid-19-related losses.

The court is considering consolidating the lawsuits due to the number and similarity of the cases. Small businesses [began filing lawsuits in state and federal courts in April](#). Judge [Barbara Rothstein](#), of the U.S. District Court for the Western District of Washington, will preside over the matter.

Among the businesses that filed suit are Seattle fitness studios, restaurant groups, multiple dentistry practices, and a hotel and motel group under “crippling” debt of at least \$7 million by mid-April, according to court documents. More than 35 businesses are represented in the lawsuits, with some individual filings including more than one business as the plaintiff.

The lawsuits assert that Gov. [Jay Inslee](#)’s various proclamations — which, in order to stem the spread of the coronavirus, required most businesses to cease operations or caused dramatic interruption to business for many months — resulted in coverable losses from their all-risk insurance policies.



BARRE3 BALLARD

Barre3 Ballard is one of dozens of small businesses who have filed a lawsuit against their insurance company over the denied claims for Covid-19-related losses. The dozens of cases are now being considered for consolidation under the Western Washington federal court.

Many of the cases say the insurance policies cover “direct physical loss of or damage to covered property” and argue this includes the loss of the use of their business premises due to the pandemic.

“From our clients’ perspective, this is just like an earthquake or a flood,” said [Amy Williams-Derry](#), partner at Seattle-based Keller Rohrback LLP, which is representing more than 30 small businesses. “We think they absolutely have a physical loss of their business property.”

At least one of the 14 insurance companies said that “viruses are generally outside the scope of business interruption coverage due to the absence of any physical damage.”

“These policies do not cover this exposure and, accordingly, premiums were never collected for it,” said [Matthew Sturdevant](#), a spokesperson for The Hartford Financial Services Group Inc., a financial services and insurance giant based in Connecticut.

Including its subsidiary Sentinel Insurance Co., the Hartford has about 10 cases against it in the Western Washington federal court.

[Kimberly Johanson](#), studio owner of Barre3 Ballard, is among four of the Barre3 franchise fitness studios filing against Sentinel.

Johanson’s studio first closed in mid-March. It has not been financially feasible for her business to reopen due to continued state restrictions and because many of her about 300-strong customer base is unwilling to come back to an indoor studio.

Pivoting to Zoom and outdoor classes — even to the point of installing a 16-by-75-foot tent on the roof of her studio’s apartment building — and coupled with a Paycheck Protection Program award that lasted two months, Johanson has managed to keep her staff of 25 employed. Revenue is still down more than 60% year over year.

“I’ve run the numbers so many times. I’m losing roughly \$5,000 to \$10,000 every month,” she said.

She worries if some kind of aid doesn’t come through her business won’t survive past January. She said she’s been fighting hard to save the team and community

she's built since opening in 2016.

“Many of these businesses will not be here a year from now if they don’t get some sort of coverage,” said Williams-Derry, whose firm is representing Johanson.

Williams-Derry also said there’s a one- to two-year window to file a claim after an incident has occurred, and she encouraged other small businesses in similar situations to consult their lawyers.

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