

**Press release from Insurance Claims Africa (ICA)**

15 September 2020

**ICA: UK's FCA test case ruling against insurers is positive development for SA tourism claimants**

- *Critically, the UK High Court clarified that the Covid-19 pandemic and the Government lockdown and public response were a single cause of the covered loss.*

*Johannesburg, 15 September 2020* -- Insurance Claims Africa (ICA) has welcomed today's UK High Court ruling that insurers are liable for COVID-19 business interruption insurance claims, and believes this is a positive development for South African claimants.

Today, the UK's Financial Conduct Authority (FCA) said in a [statement](#) that the Court found in favour of the arguments advanced for policyholders on the majority of the key issues.

To achieve clarity for all concerned, the FCA asked the [High Court for a ruling](#) on how a representative sample of business interruption policy wordings respond to COVID-19 related losses. The FCA said the test case has removed the need for policyholders to resolve many key issues of contractual uncertainty and causation individually with their insurers. The matter may be appealed by insurers, but this is as yet unclear.

Ryan Woolley, CEO of ICA, the public loss adjustment company that is representing over 700 businesses in the SA tourism and hospitality sector in their battle to get large insurers to pay out on these claims, says: "The UK case was based on business interruption policy wording that is very similar to the policy wording in many South African insurance policies in that it includes cover for notifiable infectious and contagious diseases. We assisted our affiliated company in the UK with their written brief to the FCA on behalf of policyholders, so we have really been involved from the beginning and are very pleased with the outcome. Although the UK decision does not set legal precedent in South Africa, it is a strong and positive new guide in favour of South African claimants."

"From the start, we have consistently said these claims should be paid and our message to South African insurers remains the same as it has been from the outset: come and talk to us about reaching a swift sensible settlement for the affected businesses, many of whom face having to retrench large numbers of staff, and for some, even the existential threat of closure."

"The South African insurers have consistently said they require legal certainty in order to honour their customers' claims. In July, the Financial Services Regulatory Authority (FSRA) instructed the Insurers to pay claims; also in July, the Western Cape High Court, in the matter of *Cafe Chameleon v Guardrisk*, rejected the insurers' argument that the losses suffered by the claimant were due to the lockdown, and not the Covid-19 pandemic; and now we have a ruling by the UK High Court indicating insurers are liable to policyholders. The question is, are the South African insurers, which include Old Mutual, Guardrisk, Santam, Bryte, Hollard, F&I, Chubb, TRA, Lombard, AIG and Monitor, looking for certainty or a way out of their obligations towards their customers?"

## Insurance Claims Africa



Meanwhile, the Western Cape High Court case, in which ICA and Ma-Afrika are challenging Santam's refusal to pay claims has been adjourned for judgment, which is expected before mid-November 2020.

The Tourism and Hospitality sector sustains over 740 000 direct and 1.5 million indirect jobs, contributing billions of rands to the South African economy. Since March 2020 when the Covid-19 outbreak occurred and subsequently the national quarantine / lockdown, tourism and hospitality businesses of all sizes have suffered tremendous losses and many have been forced to close their doors, putting thousands of jobs at risk.

**Ends**

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