

Santam to appeal business interruption judgment

CAPE TOWN, 20 NOVEMBER 2020 - After careful consideration and engagement with key stakeholders, Santam has decided to apply for leave to appeal the judgment of the Western Cape High Court in the matter between the insurer and Ma-Afrika Hotels and Stellenbosch Kitchen. The matter relates to policies with Contingent Business Interruption (CBI) infectious disease extensions.

Santam believes that the high court erred in its judgment regarding causation and the insured peril, the trends clause and the indemnity period, and it is therefore important to take the matter to the Supreme Court of Appeal.

The significance of the CBI matter to the insurance industry and the precedents at stake necessitate continuing to the next stage in the process of obtaining legal finality. We have also discussed the implications of the judgment with our lead reinsurers in arriving at our decision. Our reinsurers are key stakeholders in the insurance value chain as they are in effect insurers to the insurer. They agree with us on the need to obtain legal certainty from a higher court in this matter.

The Ma-Afrika judgment refers to both the Café Chameleon vs Guardrisk matter as well as the Financial Conduct Authority (FCA) judgments in the United Kingdom. All of these judgments have been taken on appeal with decisions expected late in 2020 or early in 2021.

While awaiting the legal process to be concluded, Santam paid out more than R1-billion in interim relief to assist nearly 2500 small and medium sized businesses in the hospitality, leisure and non-essential retail services with CBI cover in the policies. These are considered to be advance payments against any finally determined claims, in the event that the courts ultimately rule in favour of the policyholders. Should the courts rule in favour of Santam, then the amounts paid will be considered relief payments and will not be recovered from policyholders.

In addition to the R1-billion relief payment, the company has to date also committed up to R400-million in Covid-19 funding to provide relief through premium reductions, premium refunds, support to SMME's in the industry, corporate social responsibility and Government's Solidarity Fund.

We will continue to communicate regularly through our intermediaries to update our clients on the status of individual claims, especially those impacted by this court case. We are also pursuing an expedited appeal process to ensure that we bring this matter to finality as soon as possible.

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Santam Media Release