

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1268

SKILLETS, LLC, individually and on behalf of all others similarly situated, doing business as Skillets Restaurant; GOOD BREAKFAST, LLC, d/b/a Skillets Restaurant; SKILLETS HOLDINGS, LLC,

Plaintiffs - Appellants,

v.

COLONY INSURANCE COMPANY,

Defendant - Appellee.

RESTAURANT LAW CENTER; VIRGINIA RESTAURANT, LODGING &
TRAVEL ASSOCIATION,

Amici Supporting Appellants,

AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION;
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES,

Amici Supporting Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, Senior District Judge. (3:20-cv-00678-HEH)

Submitted: July 21, 2022

Decided: July 25, 2022

Before MOTZ, HARRIS, and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Lisa Sarah Brook, Edward Kyle McNew, MICHIEHAMLETT PLLC, Charlottesville, Virginia; Adam J. Levitt, Kenneth Abbarno, DICELLO LEVITT GUTZLER LLC, Chicago, Illinois; Timothy W. Burns, Brian P. Cawley, BURNS BOWEN BAIR LLP, Madison, Wisconsin; W. Mark Lanier, THE LANIER LAW FIRM, P.C., Houston, Texas, for Appellants. William F. Stewart, STEWART SMITH, West Conshohocken, Pennsylvania; Gary W. Berdeen, STEWART SMITH, Midlothian, Virginia, for Appellee Colony Insurance Company. Angelo I. Amador, RESTAURANT LAW CENTER, Washington, D.C.; John H. Mathias Jr., David M. Kroeger, Gabriel K. Gillett, Michael F. Linden, JENNER & BLOCK LLP, Chicago, Illinois, for Amici The Restaurant Law Center and Virginia Restaurant, Lodging & Travel Association. George E. Reede, Jr., ZELLE LLP, Washington, D.C.; Wytan M. Ackerman, ROBINSON & COLE LLP, Hartford, Connecticut; Laura A. Foggan, CROWELL & MORING LLP, Washington, D.C., for Amici American Property Casualty Insurance Association and National Association of Mutual Insurance Companies.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Plaintiffs, Skillets, LLC, Good Breakfast, LLC, and Skillets Holdings, LLC, which are corporate operators of several Florida restaurants, appeal the district court's order granting Colony Insurance Company's ("Colony") motion to dismiss Plaintiffs' complaint for declaratory judgment and breach of contract. Plaintiffs' claims stemmed from Colony's denial of insurance benefits that Plaintiffs assert Colony owed them to cover business losses sustained during the COVID-19 pandemic. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *See Skillets, LLC v. Colony Ins. Co.*, No. 3:20-cv-00678-HEH (E.D. Va. Mar. 10, 2021); *see also SA Palm Beach, LLC v. Certain Underwriters at Lloyd's London*, 32 F.4th 1347, 1359 (11th Cir. 2022) (agreeing that "the majority position [regarding physical alteration] is legally sound under Florida law"). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED