

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-20126
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
September 6, 2017

Lyle W. Cayce
Clerk

RLI INSURANCE COMPANY,

Plaintiff - Appellee

v.

MARIE COSTELLO,

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:16-CV-940

Before JONES, WIENER, and PRADO, Circuit Judges.

PER CURIAM:*

After her recreational vehicle was vandalized, appellant Marie Costello submitted a damage claim under an insurance policy issued by appellee RLI Insurance Co. The recreational vehicle was not registered when it was vandalized, and RLI denied Costello's claim based on a provision that excludes coverage for losses to the recreational vehicle if it "does not have a valid motor vehicle registration at the time of the loss." RLI also filed this declaratory-

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 17-20126

judgment action, seeking a judicial determination that there was no coverage under the policy.

The district court agreed and granted summary judgment to RLI. In particular, the district court rejected Costello’s argument that Texas Insurance Code section 862.054—Texas’s anti-technicality statute—precludes RLI from relying on the vehicle-registration exclusion as a defense to coverage. Emphasizing the Texas Supreme Court’s recent discussion of that statute in *Greene v. Farmers Insurance Exchange*, 446 S.W.3d 761 (Tex. 2014), the district court noted that the statute applies only to “breaches.” Thus, the district court reasoned, because no breach occurred in this case, the statute is inapplicable. The district court also considered other Texas Supreme Court cases that Costello claims differentiate this case from *Greene*, and the court distinguished those cases in much the same way that the Texas Supreme Court itself distinguished them in *Greene*.

Having reviewed the briefs and the record, we AFFIRM for essentially the reasons given by the district court.