

**ERIN GOOD, DENNIS L.  
GOOD, JR. AND WILLIAM A.  
GOOD, II**

\*

**NO. 2007-CA-0145**

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**COURT OF APPEAL**

**VERSUS**

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**FOURTH CIRCUIT**

**AGNES R. SAIA, AUGUSTIN  
LOPEZ, EARL WILLIAMS,  
ROBERT ROTH, JR., AND  
GUY ROTH**

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**STATE OF LOUISIANA**

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**GORBATY, J., DISSENTS, WITH REASONS**

Because there is record evidence that the building was repaired sufficiently for the Louisiana Department of Health to issue a Permit to Operate, I do not find that the Goods suffered damages as claimed. I take judicial notice of the fact that following Hurricane Katrina, the Department of Health was diligent in insuring the public's safety in eating establishments that had been flooded and subject to toxic mold and other possible health risks.

Thus, although the record supports the fact that there was no insurance coverage at the time of the loss, because the Roth's have repaired the building out of pocket, I do not find that plaintiffs have proven damages sufficient to terminate the lease.

Accordingly, I dissent.