

Town Kitchen, LLC v. Lloyd's London

Year: 2021

Court: United States Court of Appeals for the Eleventh Circuit

Case Number: 21-10992-CC

In its brief, UP tackles the issue of COVID-19 as it relates to the dismissal, at the trial court level, of Town Kitchen's complaint against Lloyd's London. UP argues the District Court relied on precedent in other jurisdictions and placed undue reliance on the *Mama Jo's Inc. v. Sparta Ins. Co.*, which involved the mere presence of construction dust—not a deadly virus that sickened millions of Americans and killed hundreds of thousands, to come to its conclusion. UP urges the court to reverse its ruling and outlines the following points to support remand of this case.

A. THE DISTRICT COURT'S DISMISSAL IS CONTRARY TO FLORIDA LAW AND IMPROPERLY RESTS ON OTHER FEDERAL COURTS ATTEMPTING TO APPLY THE LAWS OF OTHER STATES TO OTHER POLICIES

B. INSURANCE POLICIES ARE PRODUCTS AS WELL AS CONTRACTS, SO JUDICIAL RELIEF IS PARTICULARLY IMPORTANT WHEN THEY FAIL TO FUNCTION AS REASONABLY EXPECTED

C. THE INSURANCE INDUSTRY'S UNPRECEDENTED STONEWALL RESPONSE TO COVID REFLECTS A NON-FUNCTIONING COMPETITIVE MARKETPLACE

D. THIS ACTION SHOULD BE REMANDED FOR ORDINARY ADJUDICATION, INCLUDING DISCOVERY AND RESOLUTION OF FACT ISSUES.

Marshall Gilinsky and Rhonda Orin of Anderson Kill, P.C.