

No. 20-14156-BB

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

HENRY'S LOUISIANA GRILL, INC., AND,
HENRY'S UPTOWN LLC,

Plaintiffs-Appellants,

v.

ALLIED INSURANCE COMPANY OF AMERICA,

Defendant-Appellee.

On Appeal from the United States District Court for the
Northern District of Georgia,
Hon. Thomas W. Thrash, Jr., District Judge
Case No. 1:20-cv-02939-TWT

**RESTAURANT LAW CENTER'S MOTION FOR LEAVE TO FILE BRIEF
AS *AMICUS CURIAE* IN SUPPORT OF PLAINTIFFS-APPELLANTS**

Angelo I. Amador
RESTAURANT LAW CENTER
2055 L Street, NW, 7th Floor
Washington, DC 20036
(202) 492-5037
aamador@restaurant.org

John H. Mathias Jr.
David M. Kroeger
Gabriel K. Gillett
Counsel of Record
Michael F. Linden
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654
(312) 840-7220
ggillett@jenner.com

Counsel for Amicus Curiae

Henry's Louisiana Grill, Inc. v. Allied Ins. Co. of America, No. 20-14156-BB

**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 through 26.1-3, *amicus curiae* hereby certifies that it has no parent corporation and that no publicly held corporation owns 10% or more of its stock.

Pursuant to Eleventh Circuit Rule 26.1-2(b), *amicus curiae* here certify that, to the best of their knowledge, the CIP contained in Plaintiffs-Appellants' brief is complete except for the following:

Amador, Angelo I. – Counsel for *amicus curiae* Restaurant Law Center

Gillett, Gabriel K. – Counsel for *amicus curiae* Restaurant Law Center

Jenner & Block LLP – Counsel for *amicus curiae* Restaurant Law Center

Linden, Michael F. – Counsel for *amicus curiae* Restaurant Law Center

Kroeger, David M. – Counsel for *amicus curiae* Restaurant Law Center

Mathias, John H., Jr. – Counsel for *amicus curiae* Restaurant Law Center

Restaurant Law Center – *Amicus curiae*

Amicus curiae further certifies that no publicly traded company or corporation has an interest in the outcome of the case or appeal.

/s/ Gabriel K. Gillett

Gabriel K. Gillett

**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN
SUPPORT OF PLAINTIFFS-APPELLANTS**

Pursuant to Rules 27 and 29 of the Federal Rules of Appellate Procedure, the Restaurant Law Center (“Law Center”) respectfully moves for leave to file the attached *amicus curiae* brief in support of Plaintiffs-Appellants. The Law Center states the following in support of its motion:

1. Courts of Appeals, including this one, routinely permit non-parties, including the Law Center, to file *amicus curiae* briefs in cases that may have industry-wide implications. *See, e.g., Keim v. ADF Midatlantic, LLC*, No. 18-90034 (11th Cir. Dec. 24, 2018), *leave granted* (Jan. 31, 2019).

2. Motions for leave to file *amicus curiae* briefs are routinely granted because courts recognize they may be of assistance in understanding the significance of the material issues and provide useful context as the Court considers a particular case. As the Third Circuit has explained, “[e]ven when a party is very well represented, an amicus may provide important assistance to the court.” *Neonatology Associates, P.A. v. Commissioner*, 293 F.3d 128, 132 (3d Cir. 2002) (Alito, J.). “Some friends of the court are entities with particular expertise not possessed by any party to the case. Others argue points deemed too far-reaching for emphasis by a party intent on winning a particular case. Still others explain the impact a potential holding might have on an industry or other group.” *Id.* (quotation marks and citation omitted); *see also Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 976

F.3d 761 (7th Cir. 2020) (Scudder, J., in chambers) (describing how *amicus* briefs may aid the court). In this case, the Law Center’s proposed *amicus curiae* brief fulfills all three of these functions.

3. The Law Center is a public policy organization affiliated with the National Restaurant Association, the world’s largest foodservice trade association. The industry is comprised of over one million restaurants and other foodservice outlets that represent a broad and diverse group of owners and operators—from large national outfits with hundreds of locations and billions in revenue, to small single-location, family-run neighborhood restaurants and bars, and everything in between. The industry employs over 15 million people, and is the nation’s second-largest private-sector employer. Through regular participation in *amicus* briefs on behalf of the industry, the Law Center provides courts with the industry’s perspective on legal issues in pending cases that may have industry-wide implications.

4. The Law Center and its members have a significant interest in the important issues raised by this case. Many businesses in the restaurant industry have sought business interruption coverage under “all risk” commercial insurance policies for the physical loss or damage they suffered as a direct result of unprecedented executive shutdown orders. Many of those restaurants have been unreasonably and categorically denied coverage on the basis that they supposedly have not incurred physical loss or damage even though their properties have been rendered non-

functional, detrimentally altered, and physically impaired as a result of the orders. Therefore, although whether Plaintiffs-Appellants Henry's Louisiana Grill, Inc. and Henry's Uptown LLC have stated a claim for coverage depends on the specific factual allegations in their pleadings, the Law Center and its members have a strong interest in highlighting for the Court why certain issues raised in this appeal are important to the restaurant industry as a whole.

5. Under Rule 29(a)(4)(E) of the Federal Rules of Appellate Procedure, the Law Center certifies that no party's counsel authored the attached brief in whole or in part; no party or party's counsel contributed money intended to fund preparing or submitting the brief; and no person—other than *amicus curiae*, its members, or its counsel—contributed money intended to fund preparing or submitting the brief.

6. The Law Center's brief is timely as it was filed within seven days of the filing of the Plaintiffs-Appellants opening brief. Fed. R. App. P. 29(a)(6).

7. The brief complies with Fed. R. App. P. 29(a)(5) because it is no more than half the maximum length of 13,000 words authorized for Plaintiffs-Appellants brief. Fed. R. App. P. 32(a)(7)(B)(i).

8. Counsel for Plaintiffs-Appellants have consented to the filing of this *amicus* brief; counsel for Defendant-Appellee has not.

* * *

Given its substantial interest in this case, the Law Center respectfully moves for leave to file the attached brief as *amicus curiae*.

December 21, 2020

Respectfully submitted,

/s/ Gabriel K. Gillett

Angelo I. Amador
RESTAURANT LAW CENTER
2055 L Street, NW, 7th Floor
Washington, DC 20036
(202) 492-5037
aamador@restaurant.org

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David M. Kroeger
Gabriel K. Gillett
Counsel of Record
Michael F. Linden
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654
(312) 840-7220
ggillett@jenner.com

Counsel for Amicus Curiae

CERTIFICATE OF COMPLIANCE

Under Rule 32(g) of the Federal Rules of Appellate Procedure, I certify this brief complies with the length limits set forth in Fed. R. App. P. 27(d)(2)(A) because it contains 677 words, as counted by Microsoft Word, excluding the items that may be exempted under Fed. R. App. P. 27(a)(2)(B).

I further certify this Motion was filed in electronic format through this Court's CM/ECF system on the 21st day of December, 2020.

/s/ Gabriel K. Gillett

Gabriel K. Gillett

CERTIFICATE OF SERVICE

I certify that on December 21, 2020, I served the foregoing Motion upon all counsel of record by and through this Court's CM/ECF system.

/s/ Gabriel K. Gillett

Gabriel K. Gillett