

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

GENERAL NUTRITION CORPORATION;  
GENERAL NUTRITION DISTRIBUTION  
COMPANY,  
Plaintiffs-Appellants,

v.

No. 98-1088

UNITED STATES FIRE INSURANCE  
COMPANY, d/b/a Crum & Forster  
Insurance,  
Defendant-Appellee.

Appeal from the United States District Court  
for the Eastern District of Virginia, at Richmond.  
Robert R. Merhige, Jr., Senior District Judge.  
(CA-97-490-3)

Argued: October 27, 1998

Decided: December 4, 1998

Before HAMILTON and MOTZ, Circuit Judges, and  
BOYLE, Chief United States District Judge for the  
Eastern District of North Carolina, sitting by designation.

---

Affirmed by unpublished per curiam opinion.

---

**COUNSEL**

**ARGUED:** Michael J. Lockerby, HUNTON & WILLIAMS, Rich-  
mond, Virginia, for Appellants. Allan McAlpin Heyward, Jr., COOK,

WARE & HEYWARD, P.C., Glen Allen, Virginia, for Appellee. **ON BRIEF:** Michael C. Whitticar, HUNTON & WILLIAMS, Richmond, Virginia; Richard J. Fortwengler, HUNTON & WILLIAMS, Atlanta, Georgia, for Appellants. Henry N. Ware, Jr., Timothy S. Feehan, COOK, WARE & HEYWARD, P.C., Glen Allen, Virginia, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

---

## **OPINION**

### **PER CURIAM:**

General Nutrition Corporation and General Nutrition Distribution Company ("GNC") appeal the district court's grant of United States Fire Insurance Company's ("U.S. Fire") motion for summary judgment. The underlying claims revolve around GNC's contentions that U.S. Fire breached a duty to defend GNC and failed to fulfil an alleged duty to indemnify GNC. The duties in question supposedly sprung from a transaction between GNC and 4Health, Incorporated ("4Health"), which was a supplier to GNC and insured by U.S. Fire.

When 4Health and GNC were sued by Ultra Nutrition, Incorporated ("UNI") for trademark infringement involving the goods sold to GNC by 4Health, U.S. Fire negotiated a settlement with UNI. GNC alleges that this settlement undermined the value of GNC's inventory, and was entered into without proper consideration of GNC's interests.

The district court found that the contractual relationships between U.S. Fire and 4Health and between 4Health and GNC did not create coverage for GNC applicable in this case. Other claims made by GNC were found to be without merit. Upon review of the briefs and the record, and after consideration of oral arguments, we conclude that the district court was correct in granting summary judgment to U.S. Fire. For the reasons stated in the district court's memorandum opin-

ion, GNC was not entitled to indemnification by U.S. Fire. See  
General Nutrition Corp. v. U. S. Fire Ins. Co., CA No. 3:97CV490  
(E.D. Va. January 12, 1998). Therefore, we affirm the judgment of  
the district court.

AFFIRMED