

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Michael F. Consedine,
Insurance Commissioner of the
Commonwealth of Pennsylvania,
Plaintiff

v.

Penn Treaty Network America
Insurance Company,
Defendant

No. 5 M.D. 2009

Michael F. Consedine,
Insurance Commissioner of the
Commonwealth of Pennsylvania,
Plaintiff

v.

American Network Insurance
Company,
Defendant

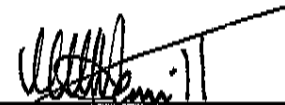
No. 4 M.D. 2009

ORDER

AND NOW, this 27th day of September, 2011, upon consideration of the oral motion for compulsory nonsuit by Intervenor Penn Treaty American Corporation and Eugene J. Woznicki pursuant to Pa. R.C.P. No. 230.1, the motion is DENIED. A nonsuit

may be entered only in cases where it is clear that the plaintiff has not established a cause of action. ... In making this determination, the plaintiff must be given the benefit of all evidence favorable to him, together with all reasonable inferences of fact arising therefrom, and any conflict in the evidence must be resolved in his favor.

Kramer v. Port Authority of Allegheny County, 876 A.2d 487, 493 (Pa. Cmwlth. 2005) (citation omitted). Applying the foregoing principles, the Court is unable to conclude at this stage of the proceedings that the Rehabilitator cannot satisfy the standard for converting the rehabilitation of Penn Treaty Network America Insurance Company and American Network Insurance Company to a liquidation set forth in Section 518(a) of Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, added by Section 2 of the Act of December 14 1977, P.L. 280, 40 P.S. §§221.18.



MARY HANNAH LEAVITT, Judge

Certified from the Record

SEP 27 2011

And Order Exit