

NOTE:

Per Judge Kenneth Brown, January 16, 2004

See Nationwide v. Moustakidis, 830 A.2d 1288 (Pa.Super. 2003)

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

ANTHONY PELUSO and :
JUDITH PELUSO, :
Plaintiffs :
vs. : NO. 03-00700
: :
: CIVIL ACTION
NATIONWIDE INSURANCE COMPANY, :
Defendant :

ORDER

AND NOW, this 13th day of November 2003, the Court GRANTS the Plaintiffs' Motion to Compel Arbitration. Under the insurance policy and endorsement between the parties, issues regarding the legal right to recover damages and the amount of damages are issues for arbitration, but questions whether the injured party is an insured or the limits of such coverage are not. Defendant claims the effect of the releases signed by the Plaintiffs is that "there is no uninsured motorist coverage under which the Plaintiffs are 'insureds'". Defendant's Brief, p. 4. This Court cannot agree. The Court finds that the issue regarding the validity of the releases does not involve a question of whether the Plaintiffs are insured by Defendant, but rather an issue of their legal right to recover damages for this claim. Therefore, this case is subject to arbitration.

The Court notes Defendant did not select an arbitrator because it did not believe this case was subject to

arbitration. The Court will give Defendant the opportunity to select an arbitrator by **December 1, 2003**. Defendant shall notify the Court and the Plaintiffs' counsel in writing of their selection. If Defendant fails to select an arbitrator by this deadline, the Court will appoint an arbitrator for Defendant.¹

By The Court,

Kenneth D. Brown, Judge

cc: David J. Selingo, Esquire
Raymond E. Ginn, Jr., Esquire
Work File
Gary Weber, Esquire (Lycoming Reporter)

¹ In accordance with the policy provisions, the third arbitrator will be selected by agreement of the Plaintiffs' arbitrator and Defendant's arbitrator. If agreement cannot be reached by January 2, 2003, counsel shall notify the Court and the Court will appoint the third arbitrator.