

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 10-10224-GAO

PHILADELPHIA INDEMNITY INSURANCE COMPANY,
Plaintiff,

v.

RAYMOND G. GOFF, WENDY E. GOFF, ANDREW P. PALMER,
and COMMONWEALTH OF MASSACHUSETTS,
Defendants.

OPINION AND ORDER

May 27, 2010

O'TOOLE, D.J.

The Commonwealth of Massachusetts (the "Commonwealth") has moved to dismiss Philadelphia Indemnity Insurance Company's complaint seeking a declaratory judgment as against it on Eleventh Amendment grounds. The motion stands unopposed. For the following reasons, the Commonwealth's motion (dkt. no. 9) is GRANTED.

Unless an exception applies, the Eleventh Amendment grants States immunity from suits for declaratory judgments. See Porier v. Mass. Dep't of Corr., 558 F.3d 92, 97 (1st Cir. 2009); Maysonet-Robles v. Cabrero, 323 F.3d 43, 49 (1st Cir. 2003). The record reveals no voluntary action by the Commonwealth that could constitute a waiver of its immunity, see New Hampshire v. Ramsey, 366 F.3d 1, 15 (1st Cir. 2004), and the Declaratory Judgment Act does not abrogate its immunity, see Muirhead v. Mecham, 427 F.3d 14, 18 n.1 (1st Cir. 2005). Neither exception to the Eleventh Amendment therefore applies in this case. See Maysonet-Robles, 323 F.3d at 49.

The complaint as against the Commonwealth is barred by the Eleventh Amendment.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge