

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GERLING AMERICA INSURANCE §	§	No. 678, 2010
CO.,	§	
	§	
Defendant Below,	§	Court Below—Superior Court
Appellant,	§	of the State of Delaware in and
	§	for New Castle County
v.	§	
	§	
MASS. ELECTRIC	§	
CONSTRUCTION CO.,	§	
	§	
Plaintiff Below,	§	C.A. No. 09C-01-138
Appellee.	§	

Submitted: November 1, 2010

Decided: November 5, 2010

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 5th day of November 2010, it appears to the Court that:

(1) Defendant/appellant, Gerling America Insurance Co. (“Gerling”), has petitioned this Court, pursuant to Supreme Court Rule 42, to accept an interlocutory appeal from “Ruling Nos. 1 and 2” of the Superior Court’s September 28, 2010 memorandum opinion as corrected on October 28, 2010. Those rulings granted the plaintiff/appellee’s motion for summary judgment on the issue of Gerling’s duty to defend and denied Gerling’s motion for summary judgment on the same issue. By order dated October

28, 2010, the Superior Court denied Gerling's application for certification of an interlocutory appeal.

(2) Applications for interlocutory review are addressed to the sound discretion of this Court and are granted only in exceptional circumstances. We have examined the Superior Court's September 28, 2010 memorandum opinion (as corrected on October 28, 2010) according to the criteria set forth in Supreme Court Rule 42 and have concluded that exceptional circumstances as would merit review of the memorandum opinion do not exist in this case.

NOW, THEREFORE, IT IS HEREBY ORDERED that the interlocutory appeal is REFUSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice