SUNSHINE v. REASSURE AMERICA LIFE INSURANCE COMPANY et al Doc. 43

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARRY SUNSHINE, ***on behalf of himself and all others similarly situated*****,** **Plaintiff,**	:	**CIVIL ACTION**
v.	:	
	:	**No. 10-1030**
REASSURE AMERICA LIFE INSURANCE COMPANY and SWISS RE LIFE & HEALTH AMERICA, INCORPORATED, **Defendants.**	:	

ORDER

AND NOW, this 6th day of March, 2012, following oral argument on November 22, 2011 at which all parties were heard, upon consideration of the Reassure America Life Insurance Company and Swiss Re Life & Health America, Incorporated motion to dismiss (paper no. 28), the Barry Sunshine response (paper no. 32) and the Reassure America Life Insurance Company and Swiss Re Life & Health America, Incorporated reply (paper no. 35), and for the reasons stated in the attached memorandum of today's date, it is **ORDERED** that:

1. The "Motion to Dismiss Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, or, in the Alternative, to Strike Plaintiff's Prayer for Relief Pursuant to Rule 12(f) of the Federal Rules of Civil Procedure and Request for Oral Argument" (paper no. 28) is **GRANTED IN PART**. Counts II, III and IV are dismissed with prejudice and the prayer for punitive damages is denied.

2. Count I is dismissed without prejudice for lack of subject matter jurisdiction.

/s/ Norma L. Shapiro

J.

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