

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

CITIZENS INSURANCE COMPANY OF AMERICA	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
GERALD V. UNG and EDWARD DIDONATO	:	NO. 13-1978

ORDER

AND NOW, this 21st day of February, 2014, upon consideration of the Motion of Plaintiff, Citizens Insurance Company of America (“Citizens”), for Summary Judgment (Document 32), defendants’ Opposition thereto, and the Cross-Motions for Summary Judgment filed by Defendant, Edward DiDonato (“DiDonato”) (Doc. 31), and Defendant, Gerald V. Ung (“Ung”) (Doc. 37), and plaintiff’s opposition thereto, and following Oral Argument by counsel for the parties by telephone conference on January 28, 2014, for reasons explained in the accompanying Memorandum, it is hereby **ORDERED** that:

1. The Motions for Summary Judgment filed by Defendant Ung (Doc. 37) and Defendant DiDonato (Doc. 31) are **GRANTED** with respect to Citizens’ duty to defend Ung in the underlying state action;
2. Plaintiff, Citizens, must defend its insured, Gerald Ung, in connection with the matter of *DiDonato v. Ung*, Phila. Court of Common Pleas, Dec. Term, 2011, No. 03852;
3. The Motions for Summary Judgment filed by Defendant Ung (Doc. 37) and

Defendant DiDonato (Doc. 31) are **DENIED** as premature with respect to Citizens' duty to indemnify Ung in the underlying state action;

4. Plaintiff's Motion for Summary Judgment is **DENIED**;

5. This case is **DISMISSED** without prejudice to Citizens' right to re-file on the issue of Citizens' duty to indemnify Ung in connection with the matter of *DiDonato v. Ung*, Phila. Court of Common Pleas, Dec. Term, 2011, No. 03852;

6. The Clerk of Court shall mark this action **CLOSED** for statistical purposes.

BY THE COURT:

s/ L. Felipe Restrepo
L. FELIPE RESTREPO
UNITED STATES DISTRICT JUDGE