

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

GUARANTEE TITLE & TRUST COMPANY,
Plaintiff

: MARCH TERM, 2001

: No.0370

v.

: Commerce Case Program

COMMONWEALTH ASSURANCE
& ABSTRACT COMPANY, etal.,
Defendants

: Control No. 041320

O R D E R

AND NOW, this 28th day of May 2002, upon consideration of defendant, The Hartford Fire Insurance Company's Motion for Summary Judgment and the response in opposition of plaintiff, Guarantee Title & Trust Company, and all other matters of record, it is hereby **ORDERED and DECREED** that the Motion is **Granted**. The language of the Fidelity Bond does not set forth the plaintiff as a named insured, and the language of the Fidelity Bond precludes the plaintiff from proceeding as a third-party beneficiary. See Scarpitti v. Weborg, 530 Pa. 366, 372-73, 609 A.2d 147, 150-51 (1992) (setting forth test for third-party beneficiary). Plaintiff provides no legal basis to support its sole argument that its operation of Defendant Commonwealth Assurance & Abstract Company's affairs allows it to act in Commonwealth Assurance & Abstract Company's place as an insured under the Fidelity Bond. Thus, the plaintiff may not prosecute a claim against The Hartford Fire Insurance Company for breach of the Fidelity Bond, and judgment is entered in favor of The Hartford Fire Insurance Company on Count VII - Breach of Contract.

BY THE COURT:

ALBERT W. SHEPPARD, JR., J.