



September 21st  
10:00 a.m. PST

**Don't Miss The Opportunity To Revolutionize  
Business With The Monopolize Your Market  
Webcast Series!**

East News

## Penn. Court: Brokers Have No Duty to Inspect Property for Flood Insurance

August 18, 2006

A national insurance trade said it supports the recent Superior Court of Pennsylvania's decision in the case of *Wisniski v. Brown & Brown Insurance Co.*, that ruled insurance brokers do not have a duty to inspect a business property for the purpose of offering flood insurance.

"We agree with the decision of the Superior of Court of Pennsylvania in that imposing such a duty on insurance brokers would be onerous," said Robert J. Hurns, counsel for the suburban Chicago-based Property Casualty Insurers Association of America (PCI), which filed an amicus brief in the case.

On September 7, 1999, plaintiff Saturn Surplus business was flooded. Saturn's complaint alleged they had contacted the Brown Agency in 1994 through an agent to obtain commercial business insurance. Saturn subsequently purchased a commercial policy from the Brown Agency, which was placed with EMC Insurance Companies (EMC). When Saturn informed the Brown Agency of the loss, they were informed there was no coverage for flood damage. Saturn filed suit, alleging the defendants breached their duty by failing to investigate the plaintiff's coverage needs, inspect the plaintiff's property, inform the plaintiffs that flood insurance was not included in the policy and recommend that the plaintiffs purchase flood insurance. On April 18, 2003, the trial court granted the Brown Agency's motion for summary judgment.

On appeal, the appellate court quashed EMC's appeal and heard Saturn's appeal on the merits. On March 2, 2005, the Pennsylvania Supreme Court vacated the appellate court's decision and remanded the matter to the appellate court "for reconsideration of whether a duty exists." On August 15, 2006, the appellate court, after examining precedent established by *Althaus v. Cohen*, determined that no such duty existed.

"The court clearly stated the initial element in any negligence action is that the defendant owes a duty of care to the plaintiff," said Hurns. "Using the test for determining whether a duty exists as established by the *Althaus* case, the court determined a legal duty did not exist."

PCI is composed of more than 1,000 member companies that write over \$184 billion in annual premium, 40.7 percent of the nation's property/casualty insurance.

Source: Property Casualty Insurers Association of America

**Find this article at:**

<http://www.insurancejournal.com/news/east/2006/08/18/71549.htm>

© 2006 Wells Publishing, Inc. [Reprint Information](#) | [Home Search](#) | [Contact Us](#)