

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

QBE INSURANCE CORPORATION,

Plaintiff,

- v -

INDEX NO. 111767/11

MARSON CONTRACTING CO., INC., MADISON 96TH
ASSOCIATES, LLC and 17 EAST 96TH STREET
OWNERS CORP. (*pertaining to an underlying
action entitled 17 East 96th St. Owners Corp.
v. Madison 96th Assoc. et al.*),

Defendants.

Administrative Order:

By letter dated June 1, 2012, defendant Madison 96 Associates, LLC (Madison 96 Assocs.) requests the reassignment of this action from I.A.S. Part 8 (Kenney, J.) to Commercial Division Part 54 (Kornreich, J.) as related to a fourth-party action entitled Madison 96th Associates, LLC v. QBE Insurance Corporation, Index No. 590113/08. Plaintiff QBE Insurance Corporation (QBE) opposes on the ground that this action is essentially moot.

The complaint in this action seeks, inter alia, a declaratory judgment that QBE is not obligated to defend or indemnify Marson Contracting Co., Inc. (Marson) in connection with an underlying litigation over a construction project on the corner of Madison Avenue and 96th Street, where one building located at 17 East 96th Street claims to have suffered damages from construction at a neighboring site -- 1380 Madison Avenue. Marson was the construction manager for Madison 96 Assoc., the real estate developer constructing the building. Several actions and third- and fourth-party actions have been consolidated before Justice Kornreich, including the fourth-party action mentioned above, whereby Madison 96 Assocs. sought insurance coverage from QBE as an additional insured under the policies of insurance issued by QBE to Marson.

The Request For Judicial Intervention (RJI) was filed in this action on or about March 12, 2012 by QBE. QBE indicated the related action pending before Justice Kornreich on the RJI, but the matter was not designated as a commercial case and the

