

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

PRESENT: Hon. Peter H. Moulton  
Administrative Order

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NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA and  
ILLINOIS NATIONAL INSURANCE COMPANY,

Plaintiffs,

- v -

INDEX NO. 653575/2014

THE ROMAN CATHOLIC DIOCESE OF  
BROOKLYN; et al.,

Defendants.

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Administrative Order:

By separate letters dated May 7, 2015, plaintiffs' counsel and counsel for defendant Westchester Fire Insurance Company (Westchester) seek review of the order of the Hon. Jeffrey K. Oing dated April 28, 2015 transferring this action to a non-commercial part. By virtue of that order, the case is now assigned to the Hon. Cynthia S. Kern (Part 55). By letter dated May 8, 2015, counsel for defendants The Roman Catholic Diocese of Brooklyn, St. Joseph Services for Children, Inc., Heart Share Human Services of New York and SCO Family of Services, Inc. (the Agency Defendants) argues that this action falls outside the jurisdiction of the Commercial Division pursuant to Uniform Rule 202.70 (c) (2) and that Justice Oing properly exercised his discretion to bounce the case pursuant to Uniform Rule 202.70 (f) (1)

This action seeks a declaratory judgment concerning general liability insurance coverage to the City of New York and the Agency Defendants arising from a now settled personal injury federal lawsuit by 10 plaintiffs who were all placed into foster care and later adopted by the same woman from 1986 through 1994. I concur with Justice Oing that this declaratory judgment action does not meet the standards for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (c) (2), which specifically excludes "[c]ases seeking a declaratory judgment as to insurance coverage for personal injury or property damage." And, accepting the arguments of Westchester's counsel that this is "a complex coverage

dispute[] . . . involving multiple insurers and alleged insureds, numerous coverage issue under dozens of alleged policies, and damages spanning more than two decades," I am confident that Justice Kern, who presides over one of the court's complex litigation parts, is up to the task.

Accordingly, the request by plaintiffs and Westchester to transfer this action back to Justice Oing is denied.

Dated: May 12, 2015

ENTER:  , A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION