

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

LEND LEASE (US) CONSTRUCTION LMB INC. and
EXTELL WEST 57TH STREET LLC,

Plaintiffs,

- v -

INDEX NO. 158438/13

ZURICH AMERICAN INSURANCE COMPANY, et al.,

Defendants.

Administrative Order:

By letters dated April 4 and 7, 2014, counsel for defendants timely requests assignment of this action to the Commercial Division. By letters dated April 7 and 8, 2014, counsel for plaintiffs opposes a transfer.

This action seeks a declaratory judgment as to insurance coverage for property damage which occurred when a tower crane attached to a high-rise building collapsed during Hurricane Sandy in October 2012. The complaint also seeks compensatory damages for costs and expenses incurred as result of the defendants' denial of coverage, as well as the payment of amounts due under the "Delay in Complete" section of the insurance policy in dispute.

The claims seeking a declaratory judgment as to insurance coverage for property damage are excluded from the Commercial Division. See Uniform Rule 202.70 (c) (2). The claims for damages as a result of the denial of coverage are first party insurance claims, and are also excluded from the Commercial Division. See Uniform Rule 202.70 (c) (5). Further, the claim for the payment of monies due under the "Delay in Complete" section of the insurance policy is an incidental claim, and does not warrant a transfer of this action into the Commercial Division. See Uniform Rule 202.70 (b) (actions will be heard in the Commercial Division where the principal claims are commercial in nature). This action does not meet the standards for assignment to the Commercial Division.

Accordingly, the case will remain in a non-commercial part.

Dated: April 9, 2014

ENTER: , A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION