

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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

Plaintiffs,

- v -

INDEX NO. 653776/2013

POLYONE CORPORATION (as Successor to L.E.  
Carpenter and Dayco Corporation), et al.,

Defendants.

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Administrative Order:

By letters dated March 4 and March 6, plaintiffs' counsel and defendant PolyOne Corporation's counsel seek review of an order by the Hon. Marcy Friedman dated February 24, 2014. The Order transferred this action to a non-commercial part on the ground that it is a declaratory judgment action for property damage coverage. To date, no other correspondence has been received.

I must respectfully disagree with Justice Friedman's determination that this action does not fall within the standards for assignment to the Commercial Division. This action involves a business dispute in which plaintiffs seek a declaratory judgment with regard to numerous insurance companies' obligations to pay for environmental response costs incurred due to environmental contamination at a facility operated by PolyOne's predecessor in interest. Even though the underlying claims involve property damage, assignment to the Commercial Division is appropriate under Uniform Rule 202.70 (b) (9) ("environmental insurance coverage") (see Century Indemnity Co. v. General Cable Corp., Index No. 108645/10 [Admin. Order dated October 22, 2010]).

Accordingly, the Motion Support Office is directed to reassign this case back to the Commercial Division. (A Motion to Dismiss was fully submitted on February 21, 2014.)

Dated: March 10, 2014

ENTER:  A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION