

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

**PRESENT: Hon. Jacqueline Silbermann
 Administrative Order**

**ERIC R. DINALLO, Superintendent of Insurance
of the State of New York, in his capacity as
Liquidator of Midland Insurance Company,**

Plaintiff,

- v -

INDEX NO. 406109/07

**ONEBEACON INSURANCE COMPANY formerly
known as General Accident Insurance
Company of America,**

Defendant.

Administrative Order:

By letter dated January 14, 2008, counsel for defendant OneBeacon Insurance Company requests that this action be transferred to the Commercial Division pursuant to Uniform Rule 202.70(e). In response, plaintiff Eric R. Dinallo, the Superintendent of Insurance of the State of New York, argues that any reassignment of the action should be made to the Hon. Michael Stallman, who is presiding over a related insurance liquidation proceeding, Matter of the Liquidation of Midland Insurance Company, Index No. 41294/86 (the Midland liquidation proceeding).

Plaintiff filed a Request for Judicial Intervention (RJI) on November 28, 2007 seeking a preliminary conference. The case was not designated as a commercial matter, but marked "Other Matters: Reinsurance Collection-Ins. Law Art. 74." Plaintiff's counsel also listed the Midland liquidation proceeding as a related action. Because that proceeding is listed as a disposed matter, the action was assigned to the Hon. Donna Mills (Part 21), who presides over a City part. On January 10, 2008, Justice Mills directed that the action be reassigned to a general I.A.S. Part, and the action is now pending before the Hon. Richard Braun (Part 23).

Uniform Rule 202.70(e) places a 10-day time limit on applications to transfer cases into the Commercial Division, measured from the receipt of a copy of the RJI. Here, the RJI was served and filed back in November of 2007, and it was at that point in time that defendant should have objected to the action not being designated as a commercial matter. Defendant's application for a transfer of this action to the Commercial Division is, therefore, denied as untimely.

As for plaintiff's request to re-assign this matter to Justice Stallman as related to the Midland liquidation proceeding, the decision as to whether this action is properly

related to the liquidation proceeding must be raised, in the first instance, with Justice Stallman. See Section I(B) of the "Summary of Courthouse Procedures."

Accordingly, for these reasons, defendant's request to transfer this action to the Commercial Division is denied. Plaintiff's request for re-assignment of the action to Justice Stallman as related to Matter of the Liquidation of Midland Insurance Company, Index No. 41294/86, is denied, without prejudice to an application made directly to the Hon. Michael Stallman.

Dated: January 18, 2008

ENTER:  _____, A.J.

Check one: ☐ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION