

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

PRESENT: Hon. Joan A. Madden, Acting Administrative Judge
Administrative Order

In the Matter of the Petition for the Appointment
of an Umpire in the Arbitration between:

EVEREST REINSURANCE COMPANY,

Petitioner,

- v -

INDEX NO. 651413/16

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

Respondents.

Administrative Order:

By letters dated March 22 and 25, 2016, petitioner Everest Reinsurance Company ("Everest") timely requests a transfer of this special proceeding from I.A.S. Part 6 (Lobis, J.) to the Commercial Division. Respondents AIU Insurance Company and National Union Fire Insurance Company of Pittsburgh, PA (collectively, "AIG") oppose the request, by their counsel's March 24, 2016 letter, contending that the matter does not meet the standards for assignment to the Commercial Division.

This is a special proceeding for the appointment of an umpire to preside over an arbitration proceeding involving reinsurance treaties. Everest contends that the proceeding meets the standards for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (b) (12), which provides that applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief pursuant to CPLR Article 75 involving commercial issues will be heard in the Commercial Division without consideration of the monetary threshold. Inasmuch as the equitable relief sought herein, namely the appointment of an umpire, is more in the nature of a procedural dispute and does not involve complex commercial issues, the request is denied.

Everest's counsel asserts that actions to appoint an umpire in reinsurance arbitrations are "typically assigned to the Commercial Division," but I note that of the five similar types of special proceedings filed in this court in recent years, of

which I am aware, three were assigned to, and handled by, non-commercial parts (see Matter of Lexington Ins. Co., Index No. 651280/11 [Feinman, J.]; Matter of American Home Assurance Co., Index No. 653079/12 [Stallman, J.]; Matter of National Union Fire Ins. Co. of Pittsburgh, PA, Index No. 650231/13 [Sherwood, J.]; Matter of National Union Fire Ins. Co. of Pittsburgh, PA, Index No. 651558/14 [Lobis, J.]; and Matter of American Home Assurance Co., Index No. 159373/14 [Kornreich, J.]).

Everest also contends that this proceeding qualifies for the Commercial Division as involving "commercial insurance coverage (e.g. directors and officers, errors and omissions, and business interruption coverage)," citing Uniform Rule 202.70 (b) (10). However, this dispute concerns reinsurance coverage for certain asbestos liabilities arising from insurance policies AIG issued to Kaiser Aluminum Corporation (see Petition, ¶ 15). Disputes regarding insurance and reinsurance coverage of personal injury liabilities are not considered commercial insurance coverage under Uniform Rule 202.70 (b) (10).

For these reasons, the request for reassignment to the Commercial Division is denied.

Dated: March 29, 2016

ENTER: _____, A.J.

HON. JOAN A. MADDEN

Check one: ☐ FINAL DISPOSITION

☐ NON-FINAL DISPOSITION