

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

TC RAVENSWOOD, LLC,

Plaintiff,

- v -

INDEX NO.: 400759/11

NATIONAL UNION FIRE INSURANCE COMPANY  
OF PITTSBURGH, PENNSYLVANIA (a/k/a AIG, n/k/a  
Chartis), ASSOCIATED ELECTRIC & GAS INSURANCE  
SERVICES LIMITED, ACE INA INSURANCE, ARCH  
INSURANCE COMPANY, and FACTORY MUTUAL  
INSURANCE COMPANY,

Defendants.

Administrative Order:

By letter dated May 6, 2011, counsel for defendant Factory Mutual Insurance Company (FMIC) requests that this action, together with a related action now pending before I.A.S. Part 12 (Feinman, J.), be transferred to the Commercial Division pursuant to Uniform Rule 202.70 (e).

The court will not reconsider its March 31, 2011 ruling in the related action, National Union Fire Ins. Co. of Pittsburgh, Pennsylvania v Transcanada Energy USA, Inc., Index No. 650515/10 (Feinman, J.), denying a similar request as untimely. It should be noted that the 10-day time limit imposed by Uniform Rule 202.70 (e) is strictly construed. In addition, both actions seek a declaratory judgment as to insurance coverage for property damage, which, under Uniform Rule 202.70 (c) (2), will not be heard in the Commercial Division. While it is true that the insured is also seeking coverage for millions of dollars in business interruption losses, the insurers' main defense is that the damage to the steam turbine generator occurred prior to the inception of the relevant all risk policy.

Accordingly, FMIC's request to transfer this action into the Commercial Division is denied.

Dated: May 9, 2011

ENTER: , A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION