

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

**Axiall Corporation and Westlake
Chemical Corporation,
Plaintiffs**

vs.) Civil Action No. 19-C-59 (Marshall County)

**National Union Fire Insurance Company
of Pittsburgh, PA; Allianz Global Risks US
Insurance Company; ACE American Insurance
Company; Zurich American Insurance Company;
Great Lakes Insurance SE; XL Insurance America,
Inc.; General Security Indemnity Company of Arizona;
Aspen Insurance UK Limited; Navigators Management
Company, Inc.; Ironshore Specialty Insurance Company;
Validus Specialty Underwriting Services Inc.; and
HDI-Gerling America Insurance Company,
Defendants**

The Chief Justice of the Supreme Court of Appeals has been advised that the Honorable David W. Hummel, Jr., Judge of the Second Judicial Circuit, has filed a motion to refer the above-referenced case to the Business Court Division pursuant to Rule 29 of the West Virginia Trial Court Rules ("TCR"). Judge Hummel indicated in his motion that this case may be related to Marshall County Civil Action Nos. 18-C-202 and 18-C-203, which were referred to the Business Court Division by Supreme Court Administrative Order entered on May 22, 2019, and could be subject to consolidation.

Plaintiffs Axiall Corporation and Westlake Chemical Corporation, by counsel, John M. Sylvester, Paul C. Fuener, David R. Osipovich, Sarah M. Czypinski, Thomas C. Ryan, Travis L. Brannon, and the law firm of K&L Gates LLP, and Jeffrey V. Kessler and the law firm of Berry, Kessler, Crutchfield, Taylor & Gordon, and Defendants National Union Fire Insurance Company of Pittsburgh, PA; Allianz Global Risks US Insurance Company; ACE American Insurance Company; Zurich American Insurance Company; Great Lakes Insurance SE; XL Insurance America, Inc.; General Security Indemnity Company of Arizona; Aspen Insurance UK Limited; Navigators Management Company, Inc.; Ironshore Specialty Insurance Company; Validus Specialty Underwriting Services Inc.; and HDI-Gerling America Insurance Company, by counsel, James A. Varner, Sr., Debra Tedeschi Varner, and the law firm of Varner & Van Volkenburg PLLC, each filed responses to the motion to refer that do not oppose referral, but do object to consolidation.

Upon careful review and consideration of the motion to refer and the responses thereto, the Chief Justice has determined that the principal claims in the action involve matters of significance to the transactions, operations, or governance between business entities as required by TCR 29.04(a)(1). The Chief Justice has further determined that specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy as required by TCR 29.04(a)(2), and the motion to refer should therefore be granted.

It is hereby ORDERED that the motion to refer this action to the Business Court Division is granted, and this order shall be transmitted to the Honorable Michael D. Lorensen, Chair of the Business Court Division, for assignment of a presiding judge and such other actions as are necessary to effectuate the provisions of TCR 29.

It is further ORDERED that the motion to consolidate is referred to the Business Court Division for decision and the presiding judge shall decide whether or not this matter should be consolidated with any other civil action currently before the Business Court Division in accordance with TCR 29.08(b).

It is further ORDERED that a copy of this ORDER be transmitted to the Central Office of the Business Court Division; the Honorable David W. Hummel, Jr., Judge of the Second Judicial Circuit; and to the Clerk of the Circuit Court of Marshall County, who is to provide copies of the same to all parties of record or their counsel.

ENTERED: OCTOBER 11, 2019

A handwritten signature in black ink, appearing to read "Elizabeth D. Walker", is written over a horizontal line.

ELIZABETH D. WALKER
Chief Justice