

Acosta, J.P., Saxe, Moskowitz, Richter, Feinman, JJ.

14840- Index 602485/06

14841 National Union Fire Insurance
Company of Pittsburgh, PA.,
Plaintiff-Appellant-Respondent,

-against-

Everest Reinsurance Company,
Defendant-Respondent-Appellant.

Cahill Gordon & Reindel LLP, New York (Edward P. Krugman of
counsel), for appellant-respondent.

Pitchford Law Group LLC, New York (David L. Pitchford of
counsel), for respondent-appellant.

Order, Supreme Court, New York County (Charles E. Ramos,
J.), entered December 20, 2013, which, to the extent appealed and
cross-appealed from as limited by the briefs, denied plaintiff
National Union Fire Insurance Company of Pittsburgh, PA.'s motion
for summary judgment dismissing defendant Everest Reinsurance
Company's seventh and ninth defenses, and denied Everest's motion
for summary judgment dismissing the complaint, unanimously
affirmed, with costs. Order, same court and Justice, entered
June 16, 2014, which, to the extent appealed from, denied
Everest's motion to renew its motion for summary judgment,
unanimously affirmed, with costs.

This record presents numerous issues of fact regarding the

2004 settlement, none of which are susceptible to resolution on summary judgment. Thus, the court correctly denied these motions, particularly in view of our prior order finding issues of fact whether National Union settled the Anniston litigation in good faith (see *American Home Assur. Co. v Everest Reins. Co.*, 90 AD3d 580 [1st Dept 2011]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: NOVEMBER 5, 2015



CLERK