

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

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

**MAGEN DAVID OF UNION SQUARE,
THE SIXTEENTH STREET SYNAGOGUE
and 3 WEST DEVELOPMENT LLC,**

Plaintiffs,

- v -

INDEX NO. 600573/08

3 WEST 16TH STREET, LLC,

Defendant.

Administrative Order:

By letters dated June 16 and 27, 2008, counsel for defendant 3 West 16th Street, LLC timely applies for a transfer of this action I.A.S. Part 59 (James, J.) to the Commercial Division pursuant to Uniform Rule 202.70. Plaintiffs oppose the application, arguing that this action was properly assigned to the Hon. Debra A. James as related to two prior actions entitled Young Israel of Fifth Avenue v National Council of Young Israel, Index No. 109055/03 and In re National Council of Young Israel, Index No. 115631/04 (the "Young Israel litigation").

This action was assigned to Justice James, because the Request For Judicial Intervention plaintiffs' counsel filed on June 9th listed the Young Israel litigation as related matters despite the fact that those matters are listed as disposed in the court's computer. Since the decision as to whether this present action is properly related to the Young Israel litigation must be raised, in the first instance, with Justice James (see Section I(B) of the "Summary of Courthouse Procedures"), the parties were referred to Justice James.

On June 24, 2008, after oral application by defendant's counsel, Justice James determined that the cases were indeed related and also determined that she could be objective despite having brokered a settlement of the Young Israel litigation. Defense counsel was, however, given time to make this application for a transfer to the Commercial Division.

There is no question that this action, in which the principal claims arise out of a transaction and contract involving commercial real property and plaintiffs seek equitable and declaratory relief in addition to damages of well over \$100,000, meets the standards

for assignment to the Commercial Division in this county. See Uniform Rule 202.70 (b). However, the assignment of cases to the Commercial Division is not absolute and may be circumvented in the interest of judicial economy. Since this action arises out of the failed settlement of the Young Israel litigation (see Complaint, ¶¶ 19-28), I believe that the present action is properly assigned to Justice James who has familiarity with the history of the building at issue and the legal issues in the case, and who is eminently capable of handling a commercial matter of this complexity.

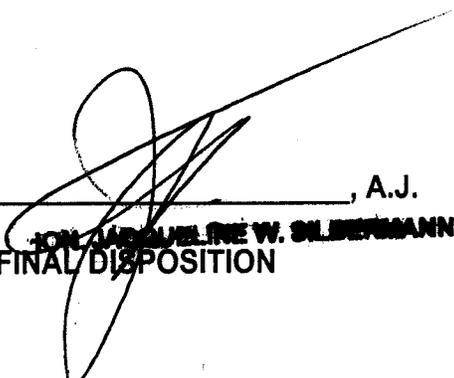
For these reasons, defendant's request to transfer this action to the Commercial Division is denied.

Dated: July 7, 2008

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION


JON MICHAEL W. SILBERMANN