

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

PRESENT: Hon. Peter H. Moulton
Administrative Order

C.B. ELECTRIC INC.,

Plaintiff,

- v -

INDEX NO. 155324/2014

S. DIGIACOMO & SON, INC., et al.

Defendants.

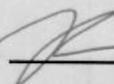
Administrative Order:

By letter dated February 9, 2016, counsel for defendant Leo House For German Catholic Emigrants ("Leo House") requests assignment of this action to the Commercial Division pursuant to Uniform Rule 202.70 (e). To date, the court has not received any response to this request.

This action arises out of the renovation of a convent building owned by Leo House. On May 30, 2014, plaintiff, an electrical subcontractor working on the renovation project, filed a summons and complaint seeking damages in the amount of \$30,182.10 for unpaid work. On August 6, 2014, Leo House filed a verified answer with a cross claim seeking indemnification against defendant S. DiGiacomo & Son, Inc. (DiGiacomo), the general contractor, based on DiGiacomo's alleged breach involving plaintiff. On October 2, 2014, DiGiacomo filed a cross claim against Leo House seeking damages in the amount of \$280,237.82. On February 9, 2016, Leo House filed a Request for Judicial Intervention (RJI) in connection with its motion seeking leave to serve an amended cross claim for damages caused by DiGiacomo's alleged delays and defective work during the renovation of the convent. Leo House filed an Commercial Division Addendum. Although the RJI has not been processed, and this action has yet to be assigned, Leo House seeks my intervention in assigning it to the Commercial Division.

The court first notes that the right to appeal an RJI designation is limited to "any other party" (Rule 202.70[e]). However, this is technically not an appeal of an assignment to a non-commercial part, so the court will entertain this request. When examining whether a case meets the monetary threshold of \$500,000 for New York County, the court is limited to the existing pleadings, which do not include "proposed" amended claims. Thus, based on the damages plead in the complaint and the answers with cross claims filed, this action does not meet the \$500,000 threshold. The request for assignment to the Commercial Division is denied.

Dated: February 17, 2016

ENTER:  _____, A.J.