

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

PRESENT: Hon. George J. Silver, Acting Administrative Judge
Administrative Order

167th STREET MAZAL LLC and 167th STREET
MAZAL MANAGER LLC,

Plaintiffs,

- v -

INDEX NO. 153112/16

DANYA CEBUS, LTD., CEBUS DEVELOPMENT
LLC and DANYA CEBUS CONSTRUCTION, LLC,

Defendants.

Administrative Order:

By letter dated June 28, 2016, defendants' counsel timely requests assignment of this action and a related action, 2338 Second Avenue Mazal LLC, et al. v Danya Cebus Ltd., et al., Index No. 153119/16, to the Commercial Division and specifically to the Hon. Anil C. Singh as further related to Airitan Management Corp. v 2238 2nd Avenue Mazal, et al., Index No. 158559/14 (the Airitan action) and MLF3 Airitan LLC, et al. v 2338 Second Avenue Mazal LLC, et al., Index No. 650040/16 (the MLF3 action). Plaintiffs' counsel joins in the request.

In this action, the owner of real property located at 446-448 West 167th Street, New York, New York asserts various business tort claims against the defendants in connection with a development and construction project at the site, known as the HAP 3 project. The complaint seeks damages in excess of \$500,000. The related action makes similar claims in connection with a construction project located at 2238 Second Avenue in Manhattan, known as the HAP 2 project. Defendant Danya Cebus Construction, LLC was the former construction manager for the HAP 2 and 3 projects. Although defendants' counsel timely filed a Request for Judicial Intervention and the required Commercial Division Addendum, the clerk's office failed to assign this action to the Commercial Division and it was assigned to General I.A.S. Part 59 (James, J.). Although the Airitan action is currently stayed, Justice Singh having directed the parties to go to arbitration, the MLF3 action is active and involves the filing of mechanics liens on the HAP 2 and HAP 3 projects and involves many of the same parties. I find that this action meets the requirements for assignment to the Commercial Division (see Uniform Rule 202.70 [a] & [b] [1]) and appears to be related to the MLF3 action currently pending before Justice Singh.

Accordingly, the parties' joint request for a transfer to the Commercial Division is

granted. The General Clerk's Office is directed to assign this case to Commercial Division Part 45 (Singh, J.) as related to MLF3 Airitan LLC, et al. v 2338 Second Avenue Mazal LLC, et al., Index No. 650040/16. If, however, Justice Singh determines that the actions are not truly related, he may direct that the case be reassigned to another Commercial Division Justice (see Dec. 2011 Operations Manual, § [I] [D] [2]), but together with Index No. 153119/16. (A motion to dismiss the complaint is presently returnable in the E-Filed Submissions Part on June 30, 2016.)

Dated: June 27, 2016

ENTER: George J. Silver, A.J.
GEORGE J. SILVER

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION