

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

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

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2338 SECOND AVENUE MAZAL LLC and 2238  
SECOND AVENUE MAZAL HOLDINGS, LLC,

Plaintiffs,

- v -

INDEX NO. 153119/16

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

Defendants.

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Administrative Order:

By letter dated June 28, 2016, defendants' counsel timely requests assignment of this action and a related action, 167<sup>th</sup> Street Mazal LLC, et al. v Danya Cebus Ltd., et al., Index No. 153112/16, to the Commercial Division and specifically to the Hon. Anil C. Singh as further related to Airitan Management Corp. v 2238 2<sup>nd</sup> 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 2338 Second Avenue, 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 2 project. The complaint seeks damages in excess of \$500,000. The related action makes similar claims in connection with a construction project located at 446-448 West 167<sup>th</sup> Street in Manhattan, known as the HAP 3 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 42 (Bannon, 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. 153112/16. (A motion to dismiss the complaint is presently returnable in the E-Filed Submissions Part on June 30, 2016.)

Dated: June 29, 2016

ENTER: George J. Silver, A.J.

**GEORGE J. SILVER**

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION