

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

PRESENT: Hon. Peter H. Moulton
Administrative Order

ALPHONSE HOTEL CORPORATION,

Plaintiff,

INDEX NO. 651405/16

- v -

LOIS R. MANNING, MILTON MANNING AGENCY,
MILTON MONTALVO, JR., and SUSANNAH JANE
MELLETT,

Defendants.

Administrative Order:

By letters dated May 5 and 11, 2016, counsel for plaintiff Alphonse Hotel Corporation (Alphonse) requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70 (e). Defendants Milton Montalvo, Jr. and Susannah Jane Mellet oppose the request by their letter dated May 9, 2016.

In this action, plaintiff "seeks a declaration that a residential lease purportedly entered into between Alphonse, as landlord, and defendants Montalvo and Mellet, as tenants, is invalid and unenforceable" (Cmplt., ¶ 1). Accordingly, the action does not qualify for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (c) (3), which excludes residential real estate disputes. The fact that plaintiff also seeks damages against the former managing agent of the building for allegedly committing a breach of fiduciary duty by entering into this rent-stabilized lease, and damages against defendants Montalvo and Mellet for allegedly aiding and abetting such a breach, does not change the nature of this action.

For these reasons, plaintiff's request for assignment to the Commercial Division is denied.

May 11, 2016

ENTER:  , A.J.
HON. PETER H. MOULTON
J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION