

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

TRANSEL ELEVATOR, INC.,

Plaintiff,

- v -

INDEX NO. 652304/2011

CENTENNIAL ELEVATOR INC., JOSEPH F. SENA,
JOSEPH GATI, and CLAUDE HARMON,

Defendants.

Administrative Order:

By letter dated October 27, 2011, plaintiff's counsel requests that this action be transferred into the Commercial Division pursuant to Uniform Rule 202.70(e). Defendants consent to this request.

Uniform Rule 202.70(b)(1) provides that actions in which the principal claims are for "[b]reach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings (e.g., . . . trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)" will be heard in the Commercial Division, provided the \$150,000 monetary threshold for New York County is met or equitable or declaratory relief is sought.

There is no doubt that this case meets the standards for assignment to the Commercial Division. Plaintiff seeks monetary and equitable relief for breach of contract, breach of fiduciary duty, aiding and abetting breach of fiduciary duty, and tortious interference with contract and prospective business advantages. The claims in this action arise out of defendants' alleged unlawful misappropriation of plaintiff's confidential and proprietary information.

Accordingly, the request for a transfer to the Commercial Division is granted. The Motion Support Office is directed to randomly reassign this case to a Justice of the Commercial Division. A motion to dismiss is currently listed as pending in the E-File Submission Part on November 17, 2011, but was recently adjourned by stipulation of the parties to January 17, 2012.

Dated: November 4, 2011

ENTER: Sherry Klein Heitler, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION