

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

**PRESENT: Hon. Helen E. Freedman (Acting Administrative Judge)
Administrative Order**

GENESCO INC.,

Plaintiff,

- v -

INDEX NO. 116638/07

**THOR FIFTH AVENUE LLC,
588-590 5 AVE LLC,
WILLIAMS U.S.A. REALTY SERVICES, INC.
as managing agent
HH BUILDING CONSULTING
& ARCHITECTURE, P.C., and
ROCKLEDGE SCAFFOLD CORP.**

Defendants.

Administrative Order:

By letter dated December 18, 2007, defendants Thor Fifth Avenue LLC and 588-590 Ave LLC apply for a transfer of this action from I.A.S. Part 36 (Ling-Cohan, J.) to the Commercial Division pursuant to Uniform Rule 202.70. Plaintiff opposes the application.

Plaintiff filed a Request for Judicial Intervention (RJI) on December 14, 2007 designating this action as "Other Matters - Contract." Defendants contend that this action meets the standards for assignment to the Commercial Division, because the complaint seeks temporary and permanent injunctive relief in connection with a commercial building located at 590 Broadway, New York, New York. The dispute concerns whether the new owner's recent efforts to renovate the lobby and facade of the building, which allegedly necessitated the erection of scaffolding and a protective barrier in front of and blocking the signage for the plaintiff-tenant's retail apparel stores, is a violation of the latter's leasehold rights.

Uniform Rule 202.70(b) (1) and (3) provide that actions in which the principal claims involve or consist of breach of contract where the breach or violation is alleged to arise out of business dealings or transactions involving commercial real property, not involving the payment of rent, will be heard in the Commercial Division provided the \$100,000 monetary threshold for New York County is met or the action seeks declaratory

or equitable relief. Thus, there is no question but that the nature of the action makes it one that should be assigned to the Commercial Division and it does not appear that Justice Ling-Cohan has, as of yet, had any substantive involvement in the matter.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. (An order to show cause is presently returnable on January 7, 2008 in Part 36).

Dated: December 26, 2007

ENTER: _____

HELEN E. FREEDMAN
HELEN E. FREEDMAN

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION