

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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

WALL STREET SERVICES, INC.,

Petitioner,

vs.

INDEX NO. 114395/2007

ERIK BARRAGAN,

Respondent.

Administrative Order:

By letters dated October 29, 2007, counsel for respondent timely applies for the transfer of this Article 75 special proceeding from I.A.S. Part 18 (Lottie Wilkins, J.) to the Commercial Division pursuant to Uniform Rule 202.70. Petitioner's counsel orally opposes the request.

Uniform Rule 202.70(b)(1) provides 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, specifically mentioning "other business agreements; 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 \$100,000 monetary threshold for New York County is met or equitable or declaratory relief is sought. Also included are applications to stay or compel arbitration and related injunctive relief pursuant to CPLR Article 75 involving any of the foregoing commercial issues -- without consideration of the monetary threshold. See Uniform Rule 202.70(b)(12).

There is no question that this special proceeding brought pursuant to CLPR 7502(c) for preliminary injunctive relief in aid of arbitration meets the standards for assignment to the Commercial Division. The underlying claims asserted in the arbitration are for breach of a written employment agreement containing a restrictive covenant and petitioner seeks to enjoin its former employee from engaging in any competing business in certain geographical areas and from divulging any of petitioner's confidential or proprietary information pending the arbitration commenced by petitioner.

Accordingly, the Motion Support Office is directed to reassign this special proceeding at random to a Justice of the Commercial Division. (An order to show cause with a temporary restraining order is currently sub judice.)

Dated: October 30, 2007

ENTER:

, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION