

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

DEUTSCHE TELEKOM NORTH AMERICA, INC.,

Plaintiff,

- v -

INDEX NO. 651116/10

NEXTCARRIER TELECOM, INC.,

Defendant.

Administrative Order:

By letter dated October 7, 2010, counsel for plaintiff timely requests that this action be transferred into the Commercial Division pursuant to Uniform Rule 202.70(e). By letter dated October 13, 2010, defendant's counsel opposes 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 . . ." should 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.

Defendant contracted with non-party T-Systems, whereby T-Systems agreed to provide international telecommunication carrier services and facilities to defendant. Plaintiff, a wholly-owned subsidiary of T-Systems, was assigned the contract.

This case meets the standards for assignment to the Commercial Division, as the complaint in this action asserts claims for breach of a telecommunications contract arising out of business dealings between the parties, as well as an account stated, and the amount in controversy exceeds \$900,000.

Accordingly, the request for a transfer to the Commercial Division is granted. The Motion Support Office is directed to randomly reassign this case to the Commercial Division. (Defendant's motion to dismiss is currently returnable on November 3, 2010 in the E-filing Motion Part.)

Dated: October 14, 2010

ENTER: _____

 A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION