

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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In the Matter of the Application of

KLIGER-WEISS INFOSYSTEMS, INC.,

Petitioner,

vs.

INDEX NO. 109108/11

EPICOR RETAIL SOLUTIONS CORPORATION,

Respondent.

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Administrative Order:

By letter dated August 12, 2011, counsel for respondent Epicor Retail Solutions Corporation timely requests that this Article 75 proceeding be transferred from Part 105 (Moulton, J.) to the Commercial Division pursuant to the Rules of the Commercial Division. Petitioner does not oppose the application.

Subdivision (b) (1) of Uniform Rule 202.70 provides that actions in which the principal claims are for breach of contract 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. The Commercial Division also hears "[a]pplications to stay . . . arbitration . . . pursuant to CPLR Article 75 involving any of the foregoing enumerated commercial issues" (Uniform Rule 202.70 [b] [12]).

This is a special proceeding, brought pursuant to CPLR Article 75, in which the petitioner seeks a stay of an arbitration commenced by respondent. The underlying arbitration concerns respondent's claims that petitioner has failed to pay approximately \$680,000 owed pursuant to a Software Sub-License Agreement dated December 19, 2001, as amended by a Settlement Agreement dated July 31, 2007. There is no question that the underlying arbitration proceeding involves commercial issues and that the instant proceeding belongs in the Commercial Division pursuant to Uniform Rule 202.70 (b) (1) and (b) (12).

Accordingly, respondent's request for a transfer to the Commercial Division is granted. The Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. Counsel are directed to contact the part clerk of the

new Commercial Division judge to schedule a new date and time for the hearing on the pending order to show cause.



Dated: August 12, 2011

ENTER: , A.J.

Check one:  FINAL DISPOSITION       NON-FINAL DISPOSITION