

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

PRESENT: Hon. Peter H. Moulton
Administrative Order

ESRT EMPIRE STATE BUILDING, L.L.C.,

Plaintiff,

- v -

INDEX NO. 656145/2016

PACIFICA FOUNDATION, INC.,


Defendant.

Administrative Order:

By letter dated March 28, 2017, plaintiff's counsel timely requests a transfer of this action to the Commercial Division pursuant to Commercial Division Rule 202.70.

Commercial Division Rule 202.70 (b) (3) provides that transactions involving commercial real property, excluding actions for the payment of rent only, will be heard in the Commercial Division provided the \$500,000 monetary threshold for New York County is met or equitable or declaratory relief is sought. While the complaint filed in this action seeks monetary damages against defendant of excess of \$1.3 million, the lawsuit is essentially an action to collect unpaid rent and license fees. I agree with the determination of the General Clerk's Office that this action is for non-payment in a commercial real estate matter, and thereby does not qualify for assignment to the Commercial Division pursuant to Commercial Division Rule 202.70 (b) (3).

Dated: April 3, 2017

ENTER:  HON. PETER H. MOULTON
J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION