

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

PRESENT: Hon. Peter H. Moulton  
Administrative Order

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WHITNEY SEYMOUR, JR. and CATRYNA TEN  
EYCK SEYMOUR,

Plaintiffs,

- v -

INDEX NO. 154579/2016

ARA HOVNANIAN and RACHEL LEE  
HOVNANIAN,

Defendants.

*and a third-party action.*

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Administrative Order:

By letter dated March 22, 2017, plaintiffs' counsel requests assignment of this action to the Commercial Division pursuant to Commercial Division Rule 202.70.

This action alleges property damage to plaintiffs' historic row house located at 290 West 4th Street in Manhattan as a result of the alleged negligent, careless and reckless gut renovation by defendants of their adjacent private row house located at 292 West 4th Street. Although the complaint alleges claims for breach of a license agreement entered into by the parties in May 2013 relating to the construction, this claim, and plaintiffs' other tort claims sounding in negligence, strict liability, nuisance and trespass, do not arise out of business dealings within the meaning of Commercial Division Rule 202.70 (b) (1) (see e.g. 736 West End Ave. Assocs., LLC v 732-734 WEA, LLC, Index No. 652455/14 (Administrative Order dated October 29, 2014)). In addition, suits involving residential real estate disputes are excluded from the Commercial Division (see Rule 202.70 [c] [3]) as well as cases concerning home improvement contracts involving one-family residences (see Rule 202.70 [c] [4]).

For the foregoing reasons, notwithstanding the fact that the Commercial Division Addendum was not timely filed (see Rule 202.70 [d]), this action does not meet the standards for assignment to the Commercial Division. Plaintiffs' request for assignment to the Commercial Division is denied.

Dated: March 28, 2017

ENTER: 

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION