

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

PRESENT: Hon. Peter H. Moulton  
Administrative Order

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SEAN SULLIVAN,

Plaintiff,

- v -

INDEX NO. 653123/15

ADVISE TECHNOLOGIES, LLC, ADVISE  
HOLDINGS, LLC, and DOUGLAS SCHWENK,

Defendants.

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Administrative Order:

By letter dated November 17, 2015, counsel for plaintiff Sean Sullivan requests a transfer of this action to the Commercial Division pursuant to Uniform Rule 202.70. To date, no opposition has been received.

Uniform Rule 202.70 (b) (1) provides that actions in which the principal claims involve or consist of breach of contract or business tort, where the breach or violation is alleged to arise out of business dealings, including employment agreements, 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.

In this lawsuit, plaintiff, the former president of defendant Advise Technologies, LLC, seeks severance and other compensation pursuant to a written employment agreement following his termination in November 2013. The complaint alleges damages in excess of \$500,000 if the estimated value of certain stock options plaintiff claims to be entitled to exercise are included. The complaint also seeks a declaratory judgment affirming his unrestricted right to purchase over 187,000 shares of the common stock of Advise Holdings, LLC. Accepting the complaint on its face, this action meets the standards of the Commercial Division. However, if the newly-assigned Commercial Division judge finds, after further inquiry, that the actual amount in controversy is less than \$500,000 and the declaratory relief sought is not a principal claim in the lawsuit, he or she may transfer this action to a non-commercial part in accordance with Uniform Rule 202.70 (f) (1).

Accordingly, the General Clerk's Office is directed to reassign this case at random from I.A.S. Part 46 (Billings, J.) to a Justice of the Commercial Division. (A motion to dismiss the complaint is returnable on December 8, 2015 in the E-Filed Submissions Part.)

Dated: November 24, 2015

ENTER: , A.J.

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION