

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

PRESENT: Hon. Peter H. Moulton
Administrative Order

DOLP 1133 PROPERTIES II LLC,

Plaintiff,

- v -

INDEX NO. 653789/14

AMAZON CORPORATE LLC,

Defendant.

Administrative Order:

By letters dated February 26 and 27, 2015, plaintiff's counsel timely requests reassignment of this action from I.A.S. Part 7 (Wooten J.) to the Commercial Division pursuant to Uniform Rule 202.70 (e). By letters dated February 27, 2015, defendant opposes the request.

The complaint's first cause of action asserts a claim against defendant for breach of a letter of intent, by which the parties agreed to proceed in good faith in drafting and negotiating a lease of 10 full floors of commercial space in the plaintiff's building located at 1133 Avenue of the Americas, New York, New York. In addition, the complaint alleges claims for breach of the implied covenant of good faith and fair dealing, fraud, and specific performance of the proposed lease agreement. Damages in excess of \$5,000,000 are sought.

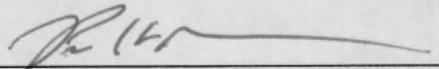
Plaintiff contends that this action meets the requirements for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (b) (1), i.e., breach of contract arising out of commercial dealing, and Uniform Rule 202.70 (b) (3), i.e., transactions involving commercial real property. Defendant argues that this action is not of a complex nature requiring the specialized expertise or practices of the Commercial Division. Defendant further contends that, even if the action is not dismissed in its entirety based on the parties' forum selection clause, plaintiff's only viable claim is the first cause of action and its damages on that claim are limited to its out-of-pocket professional fees, citing 180 Water St. Assocs., L.P. v. Lehman Bros. Holdings, Inc., 7 A.D.3d 316 (1st Dept 2004), which defendant maintains do not exceed New York County's \$500,000 monetary threshold.

The allegations of the complaint meet the requirements for assignment to the Commercial Division in New York County. It would not be proper for an administrative judge to engage in any substantive analysis of the merits of the claims and/or damages requested in connection with an administrative decision over

judicial assignment.

Accordingly, plaintiff's request for a transfer to the Commercial Division is granted. The General Clerk's Office is directed to assign this case at random to a Justice of the Commercial Division, who has the discretion, pursuant to Uniform Rule 202.70 (f) (1), to transfer the action back to Justice Wooten if he or she believes the action does not fall within the jurisdiction of the Commercial Division. (A motion to dismiss the complaint is presently returnable on March 19, 2015.)

Dated: March 4, 2015

ENTER: , A.J.

HON. PETER H. MOULTON
SUPREME COURT JUSTICE

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION