

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

MORFOGEN MANAGEMENT LLC and STRATIS
MORFOGEN,

Plaintiffs,

- v -

INDEX NO. 650343/14

DAVE 60 NYC INC., MERCHANTS HOSPITALITY
INC., RICHARD COHN, ABRAHAM MERCHANT,
STEVEN BOXER, THE STEVEN BOXER 2013
IRREVOCABLE TRUST fbo LAUREN BOXER,
STEVEN KANTOR, THE STEVEN L. KANTOR TRUST
F/B/O CHILDREN, PHILIPPE CHOW a/k/a
CHAK YAMM CHAU and JOSEPH GOLDSMITH,

Defendants.

Administrative Order:

By letter dated February 10, 2014, defendants' counsel applies for a transfer of this action from I.A.S. Part 37 (Engoron, J.) to the Commercial Division. Plaintiffs' counsel opposes by letters dated February 12 and 14, 2014.

The request is timely (see Uniform Rule 202.70 [e]). There is also no question that this action meets the standards for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (b) (1), (3), (7) and (11), since the dispute concerns the ownership, operation and possible dissolution of Dave 60 NYC, Inc., a company formed to own and manage a restaurant business and the complaint seeks damages of over \$3 million as well as injunctive relief. Nevertheless, I am denying the request for re-assignment on grounds of judicial economy. Justice Engoron has already spent a significant amount of time on this matter in connection with plaintiffs' application for a preliminary injunction and temporary restraining order (TRO), which was granted on February 3rd, and subsequently, via telephone, on February 14th in connection with plaintiffs' claim that the defendants have violated the TRO. In addition, the issue of a transfer to the Commercial Division was not raised by defendants' counsel at oral argument of the TRO. See, e.g., Creative Management Services, LLC d/b/a MC² v Nazario, Index No. 152288/12 (Administrative Order dated May 14, 2012).

For these reasons, transfer to the Commercial Division is denied.

Dated: February 19, 2014

ENTER: Sherry Klein Heitler, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION