

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

**PRESENT: Hon. Jacqueline Silbermann
Administrative Order**

729 ACQUISITION LLC,

Plaintiff,

- v -

INDEX NO. 105261/07

729 OWNER LLC and HT REST NYC LLC,

Defendants.

Administrative Order:

By letter dated December 7, 2007, defendants apply for a transfer of this action to the Commercial Division pursuant to Uniform Rule 202.70. There is no opposition from plaintiff's counsel and the application is timely pursuant to Uniform Rule 202.70(e).

Plaintiff's counsel served a Request for Judicial Intervention (RJI) on November 30, 2007 designating this action as "Other Real Property." Defendants contend that this action meets the standards for assignment to the Commercial Division, because the complaint seeks declaratory relief in connection with a commercial condominium building located at 729 Seventh Avenue, New York, New York. The dispute concerns whether "a cantilevered, illuminated, LCD rotating store sign apparatus" violates the buildings Declaration of Condominium and By-Laws.

Uniform Rule 202.70(b) (1) and (3) provide that actions in which the principal claims involve or consist of breach of contract where the breach or violation is alleged to arise out of business dealings or transactions involving commercial real property, not involving the payment of rent, will be heard in the Commercial Division provided the \$100,000 monetary threshold for New York County is met or the action seeks declaratory or equitable relief. Thus, there is no question but that the nature of the action makes it one that should be assigned to the Commercial Division.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. (Although not yet showing up on the court's computer, the RJI was filed on or about December 13, 2007).

Dated: December 17, 2007

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION