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

PRESENT: <u>Hon. George J. Silver, Acting Administrative Judge</u>
             Administrative Order
_____

JOEL THOME,

                    Plaintiff,

             - v -   INDEX NO. **152721/2017**

THE ALEXANDER AND LOUISA CALDER
FOUNDATION and ALEXANDER S.C. ROWER,

                    Defendants.
_____

Administrative Order:

By letter dated August 31, 2017, counsel for plaintiff Joel Thome requests assignment of this action to the Commercial Division pursuant to Commercial Division Rule 202.70 (e), and, in particular, to the Hon. Shirley Kornreich, Commercial Division Part 54, as related to <u>In re Application of Joel Thome to Take Certain Depositions</u>, Index No. 654695/2016. Defense counsel does not oppose assignment to the Commercial Division, but contends that this case is not related to Mr. Thome's 2016 petition for pre-action discovery that was granted by Justice Kornreich.

Actions in which the principal claims are for breach of contract or business torts, where the breach or violation is alleged to arise out of business dealings, may 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 (Commercial Division Rule 202.70 [a], [b] [1]). In this action, plaintiff seeks $2 million in damages for the defendants' allegedly tortious interference with a prospective business advantage, which allegedly resulted in his loss of a valuable opportunity to sell works of art which he owns. Plaintiff also asserts claims for product disparagement and tortious interference with a consignment agreement.

The request for a transfer to the Commercial Division is granted. However, I do not believe that this action is related to the now disposed CPLR 3102(c) petition, since the factual and legal issues in that proceeding were whether Mr. Thome had made a sufficient showing that he was entitled to pre-action discovery to frame a complaint.

The General Clerk's Office is directed to randomly reassign this action to a Justice of the Commercial Division.

Dated: September _11_, 2017   ENTER: _____, A.J.

Check one: ❏ FINAL DISPOSITION   ❏ NON-FINAL DISPOSITION