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

PRESENT: Hon. Sherry Klein Heitler
            Administrative Order

3M COMPANY,

                    Plaintiff,

                    - v -   INDEX NO.: 651708/11

HARVEY BOULTER, PORTON CAPITAL
TECHNOLOGY FUNDS, PORTON CAPITAL, INC.,
LANNY DAVIS, LANNY J. DAVIS & ASSOCIATES,
PLLC, and DAVIS-BLOCK LLC,

                    Defendants.
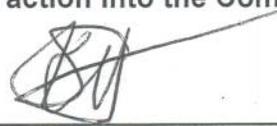

Administrative Order:

By letter dated July 22, 2011, counsel for plaintiff requests that this action, now pending before I.A.S. Part 61 (Singh, J.), be transferred to the Commercial Division pursuant to Uniform Rule 202.70 (e). Defendants Harvey Boulter, Porton Capital Technology Funds, and Porton Capital, Inc. oppose this request.

It is the plaintiff's contention that this action meets the standards for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (a) and (b) (1), because it seeks damages in excess of $150,000 and because the principal claims involve business torts and statutory and common law violations alleged to arise out of business dealings. However, the principal claims do not "arise out of business dealings (e.g., sales of assets or securities; corporate restructuring; partnership, shareholder, joint venture, and other business agreements . . .)." Uniform Rule 202.70 (b) (1). The complaint alleges that, during settlement negotiations in a pending action in the High Court of Justice in London, England, defendants engaged in blackmail and defamed the plaintiff, which damaged its reputation and interfered with prospective business relations. These claims do not arise out of business dealings, but rather, arise out of the litigation pending in London.

Further, it is not clear as to whether this action meets the $150,000 monetary threshold for assignment to the Commercial Division in New York County, as the complaint is devoid of any monetary demand.

Accordingly, plaintiff's request to transfer this action into the Commercial Division is denied.

Dated: July 2̲7̲ 2011   ENTER: _____, A.J.

Check one: ❏ FINAL DISPOSITION   ❏ NON-FINAL DISPOSITION