

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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

FORMULA PM LLC,

Plaintiff,

- v -

INDEX NO. 109010/2007

RINKER BOAT COMPANY, INC. and
ZERTEK INC. d/b/a BOAT-N-RV WAREHOUSE,

Defendants.

Administrative Order:

By letter dated April 2, 2008, counsel for defendant Rinker Boat Company, Inc. applies for a transfer of this action from I.A.S. Part 15 (Tolub, J.) to the Commercial Division pursuant to Uniform Rule 202.70. There is no opposition from the other parties and the request is timely. See Uniform Rule 202.70(e).

Uniform Rule 202.70(b)(1) provides that actions in which the principal claims involve or consist of breach of contract arising out of business dealings will be heard in the Commercial Division provided the \$100,000 monetary threshold for New York County is met or the action seeks equitable or declaratory relief. In addition, subsection (b)(2) includes as commercial matters "[t]ransactions governed by the Uniform Commercial Code." This action concerns claims arising out of defendants' sale of an allegedly defective motor yacht to plaintiff for the purchase price of \$360,000. Plaintiff's causes of action include breach of an implied warranty of fitness under UCC 2-315, breach of an express warranty of merchantability and negligence. Thus, there is no question that this action meets the standards for assignment to the Commercial Division.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. (A preliminary conference is currently scheduled in Part 15 on April 25, 2008 at 11:00 a.m.)

Dated: April 17, 2008

ENTER: _____, A.J.

Check one: ☐ FINAL DISPOSITION

☐ NON-FINAL DISPOSITION