

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

PRESENT: Hon. Jacqueline Silbermann  
Administrative Order

---

TEAM HEALTH, INC. AND EMERGENCY  
COVERAGE CORPORATION,

Plaintiffs,

- v -

INDEX NO. 601374/06

CAREMARK RX, INC.,

Defendant.

---

Administrative Order:

By letter dated November 30<sup>TH</sup>, counsel for defendant applies for a transfer of this action from I.A.S. Part 59 (James, J.) to the Commercial Division pursuant to Uniform Rule 202.70.

The Request for Judicial Intervention (RJI) was filed on November 16, 2006, and defendant received a copy of the RJI, by mail, on November 20, 2006. Therefore, the defendant's application is timely. Uniform Rule 202.70 (e). The Court has not received opposition to this request.

Defendant's counsel contends that this action meets the standards for assignment to the Commercial Division, because the plaintiffs seek a monetary judgment in excess of \$100,000, and the action is for breach of contract.

The complaint seeks monetary damages in the amount of \$1,950,000, and thus, meets the monetary threshold of the Commercial Division, as set forth in Uniform Rule 202.70 (a).

Uniform Rule 202.70 (b) (1) provides that in actions in which the principal claims involve or consist of breach of contract, and the breach or violation is alleged to arise out of business dealings, the action will be heard in the Commercial Division.

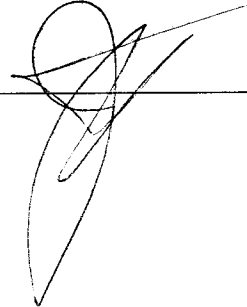
A review of the complaint filed reveals that this action concerns a claim arising out of an alleged breach of an indemnification provision of a Recapitalization Agreement. The Recapitalization Agreement effectuated the sale of plaintiff Team Health to a group of investors, which is clearly a business transaction. The Recapitalization Agreement allegedly included an agreement by defendant to

indemnify Team Health and its subsidiaries for losses related to or arising out of certain claims that predated the sale. Therefore, 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. (A preliminary conference is scheduled for December 19<sup>th</sup>).

Dated: December 12, 2006

ENTER: \_\_\_\_\_, A.J.

A handwritten signature in black ink, consisting of a large loop at the top and a long, sweeping stroke that extends downwards and to the right, crossing the horizontal line of the signature line.

Check one: ☐ FINAL DISPOSITION

☐ NON-FINAL DISPOSITION