

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

PRESENT: Hon. Peter H. Moulton  
Administrative Order

ADNU, LLC,

Plaintiff,

- v -

INDEX NO. 654542/2016

ADMARKETPLACE, INC.,

Defendant.

Administrative Order:

By letter dated December 2, 2016, counsel for defendant and counterclaim-plaintiff adMarketplace, Inc. requests assignment of this action to the Commercial Division pursuant to Uniform Rule 202.70 (e).

Uniform Rule 202.70 (a) and (b) (1) provides that actions in which the "principal claims" involve or consist of breach of contract or business tort, where the breach or violation is alleged to arise out of business dealings, will 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. This court has ruled on multiple occasions that the monetary threshold can be met by the ad damnum clause of a counterclaim (see e.g. LCS Restoration Corp. v Workspace, Inc., Index No. 155032/2016 [Admin. Order dated Oct. 4, 2016]; Goldberg v Kooser, Index No. 651601/2016 [Admin. Order dated Aug. 17, 2016]; Krauter & Co. v Ross, Index No. 160972/2015 [Admin. Order dated Jan. 27, 2016]). This interpretation is consistent with the Commercial Division Addendum form which requires the filing party to include a brief description of any counterclaims, "including claim for monetary relief."

Accordingly, the request for assignment to the Commercial Division is granted. The General Clerk's Office is directed to re-assign this case at random to a Justice of the Commercial Division and to reschedule the preliminary conference, presented scheduled on January 11, 2017 in I.A.S. Part 37.

Dated: December 12, 2016

ENTER: P. H. Moulton, A.J.

Check one: ☐ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION