

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

AMERICAN STOCK TRANSFER & TRUST COMPANY,
LLC and PHOENIX ADVISORY PARTNERS, LLC,

Plaintiffs,

- v -

INDEX NO. 104249/11

ALLIANCE ADVISORS, LLC; MATTHEW
BOLGER; and JOSEPH CARUSO,

Defendants.

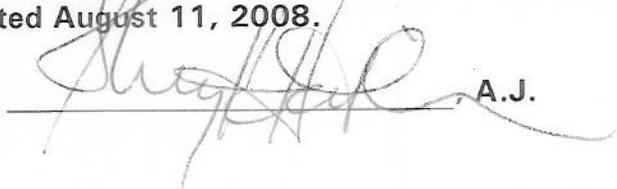
Administrative Order:

By letter dated March 29, 2013, plaintiffs timely seek assignment of this case to the Commercial Division pursuant to Uniform Rule 202.70 (b) (1). By letters dated April 4 and 10, 2013, defendants Alliance Advisors, LLC (Alliance) and Joseph Caruso (Caruso) separately oppose the application.

Plaintiffs and Alliance are competitors in the shareholder services industry; Caruso is the Chief Operating Office of Alliance. This action arises from a letter sent in early 2011 by defendant Matthew Bolger, at the time an employee of Alliance, to a client of the plaintiffs, two competitors and a professional organization, in which the plaintiffs are accused of having engaged in a kickback scheme to acquire business. Plaintiffs allege that the letter is false and defamatory and has caused the plaintiffs monetary damages in excess of \$20 million and injured their reputation.

Assignment to the Commercial Division is denied. This court has previously ruled that where the principal claim is defamation not arising out of complex business dealings between the parties, it does not satisfy the standards for assignment to the Commercial Division under Uniform Rule 202.70 (b) (1). See Felix Investments, LLC v Advanced Equities, Inc., Index No. 114935/10, Admin. Order dated March 29, 2011; Pitcock v Kasowitz, Benson, Torres & Friedman, LLP, Index No. 601984/08, Admin. Order dated August 11, 2008.

Dated: April 15, 2013

ENTER:  A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION