

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

---

BLT STEAK LLC and BLT FISH LLC,

Plaintiffs,

- v -

INDEX NO. 151293/13

LIBERTY POWER CORP., L.L.C.,  
d/b/a LIBERTY POWER NEW YORK,  
and LIBERTY POWER HOLDINGS LLC,

Defendants.

---

By letter dated March 18, 2013, counsel for the defendants requests, with the consent of all parties, that this case be assigned to the Commercial Division pursuant to Uniform Rule 202.70.

Counsel contends that this case falls within the standards for assignment to the Commercial Division set forth in Uniform Rule 202.70 (b) (1), because the complaint asserts claims for breach of contract, fraud, unjust enrichment, tortious interference with a contract, and violations of New York General Business Law §§ 349 and 350 in connection with plaintiffs' eight-year purchase of electricity from the defendants. However, the gravamen of this dispute is a claim for compensatory and punitive damages caused by the defendants' alleged "slamming" of plaintiffs (enrolling them as electricity customers without their consent) and/or by fraudulent inducement and false advertising, and then allegedly charging exorbitant sums for the supply of electricity (see Complaint, ¶ 1). Since the principal claims stem, not from any business dealings between the parties, but from the violation of consumer protection statutes, this case does not meet the standards for assignment to the Commercial Division.

For these reasons, the parties' request for assignment to the Commercial Division is denied, and the case will remain in I.A.S. Part 17 (Hagler, J.).

Dated: March 22, 2013

ENTER: \_\_\_\_\_

*Sherry Klein Heitler*  
A.J.

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION