

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

BIST REALTORS LLC,

Plaintiff,

- v -

INDEX NO. 150068/2011

CITIBANK, N.A.,

Defendant.

Administrative Order:

By letter dated February 20, 2013, counsel for defendant timely requests that this action be transferred into the Commercial Division pursuant to the Rules of the Commercial Division, Uniform Rule 202.70 (e). To date, no objection to the request has been received.

Subdivision (b) (1) of the Rules of the Commercial Division provides that actions in which the principal claims are for breach of contract, where the breach or violation is alleged to arise out of business dealings, should be heard in the Commercial Division, provided the \$150,000 monetary threshold for New York County is met or equitable or declaratory is sought. Also designated as commercial matters are transactions involving the Uniform Commercial Code (UCC) (Uniform Rule 202.70 [b] [2]). In addition, the Commercial Division will hear claims arising out of dealings with commercial banks (Uniform Rule 202.70 [b] [6]).

In this action, plaintiff seeks damages in excess of \$1,000,000 for breach of contract, negligence, and breach of Article 4 of the UCC arising out of the wrongful conversion of checks intended for deposit in plaintiff's account by plaintiff's former employee. There is no question that this action meets the standards for assignment to the Commercial Division under Uniform Rule 202.70 (b) (1), (2) and (6).

Accordingly, the request for a transfer to the Commercial Division is granted. The Trial Support Office is directed to randomly reassign this case to a Justice of the Commercial Division, and schedule a preliminary conference as soon as possible.

Dated: March 6, 2013

ENTER: Sherry Klein Heitler, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION