

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

BROWN HARRIS STEVENS WESTHAMPTON  
LLC,

Plaintiff,

- v -

INDEX NO. 110159/2011

KELLY GERBER,

Defendant.

Administrative Order:

By letter dated November 22, 2011, counsel for defendant timely applies for a transfer of this action from I.A.S. Part 15 (Rakower, J.) to the Commercial Division. Opposition has not been received to date.

Defendant contends that this action meets the standards for assignment to the Commercial Division, because this action involves a claim for breach of a real estate brokerage agreement and seeks \$175,000 in damages.

Uniform Rule 202.70 (b) (1) and (3) provide that actions in which the principal claims involve or consist of breach of contract where the breach or violation is alleged to arise out of business dealings, or transactions involving commercial real property not involving the payment of rent, will be heard in the Commercial Division. However, Uniform Rule 202.70 (c) (3) specifically provides that cases involving residential real estate disputes are non-commercial. Here, plaintiff, a real estate brokerage firm, seeks a real estate commission it is allegedly owed for the sale of a residential property owned by defendant. Thus, this matter is non-commercial.

For the foregoing reasons, the request to transfer this case to the Commercial Division is denied.

Dated: November 30, 2011

ENTER: , A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION