

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

PRESENT: Hon. Martin Shulman (Acting Administrative Judge)
Administrative Order

AD CAPITAL, LLC,

Plaintiff,

vs.

INDEX NO. 100028/10

AIP RESORT DEVELOPMENT, LLC; DURHAM,
JONES & PINEGAR, P.C.; and KEITH BARTON &
ASSOCIATES, FAIRSTAR RESOURCES, LTD.,

Defendants.

Administrative Order:

By letter dated March 2, 2010, counsel for defendant Durham, Jones & Pinegare, P.C. timely requests that this action be transferred into the Commercial Division pursuant to the Rules of the Commercial Division, Uniform Rule 202.70(e). There is no objection to the request from any other party.

Actions in which the principal claims are for breach of contract, where the breach or violation is alleged to arise out of business dealings, may be heard in the Commercial Division, provided the \$150,000 monetary threshold for New York County is met or equitable or declaratory is sought (Uniform Rule 202.70[b][1]). Also designated as commercial matters are transactions involving the Uniform Commercial Code (UCC) (Uniform Rule 202.70[b][2]).

In this action, plaintiff sues for injunctive relief and a declaration from the court concerning the validity and priority of certain UCC-1 financing statements and a UCC-5 correction statement filed against property of defendant AIP Resort Development, LLC, alleged to be a debtor of plaintiff AD Capital, LLC. There is no question that this action meets the standards for assignment to the Commercial Division under Uniform Rule 202.70(b)(1) and (2). Indeed, plaintiff's counsel designated the matter as "Other Commercial" when he filed the Request for Judicial Intervention on February 16, 2010.

Accordingly, the request for a transfer to the Commercial Division is granted. The Motion Support Office is directed to randomly reassign this case from I.A.S. Part 7 (Wooten, J.) to a Justice of the Commercial Division. Counsel are directed to jointly contact the newly-assigned Justice to schedule a new date for the pending order to show cause, which is adjourned sine die.

Dated: March 3, 2010

ENTER: _____

, A.J.


MARTIN SHULMAN
J.S.C.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION