

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

MELISSA L. Y. CHIN, an Individual and STEVE
CHOI, an Individual,

Plaintiffs,

- v -

INDEX NO. 101282/10

DAVID TUTERA, INC., a New York Corporation,
and DAVID TUTERA, an Individual; and DOES
1 through 100, inclusive,

Defendants.

Administrative Order:

By letter dated April 14, 2010, counsel for the defendants David Tutera and D.T. Studios Inc. (s/h/a David Tutera, Inc.) timely applies for a transfer of this action from I.A.S. Part 2 (York, J.) to the Commercial Division pursuant to Uniform Rule 202.70. Plaintiffs' counsel opposes a transfer by his letter dated April 21, 2010.

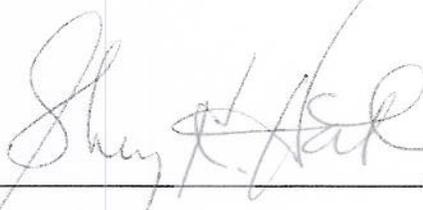
It is the defendants' contention that this action meets the standards for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (a) and (b) (1), because the complaint seeks damages in excess of \$150,000 and because the principal claims in this case are for breach of contract and fraud. However, subsection (b) (1) of Uniform Rule 202.70 provides that the principal claims must "arise out of business dealings (e.g., sales of assets or securities; corporate restructuring; partnership, shareholder, joint venture, and other business agreements . . .)."

The claims in this lawsuit arise out of an agreement between plaintiffs and defendants for the latter to provide wedding production and design services for plaintiffs' August 2009 wedding in Singapore. In addition to breach of contract, plaintiffs are suing for intentional infliction of emotional distress, contending that defendants' actions caused them to suffer severe emotional distress on the days leading up to their wedding. This is not the kind of business dispute that the Commercial Division was created to handle. Rather, it is more akin to a lawsuit over professional fees, which is

specifically excluded from the categories of cases that will be heard in the Commercial Division. See Uniform Rule 202.70 (c) (1).

Accordingly, defendants' request for a transfer to the Commercial Division is denied.

Dated: April 30, 2010

ENTER:  _____, A.J.

HON. SHERRY KLEIN HEITLER

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION