

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

PRESENT: Hon. Joan B. Carey
Administrative Order

INTERSTATE INDUSTRIAL CORP.,

Plaintiff,

- v -

INDEX NO. 105195/09

PAVARINI MCGOVERN, LLC; NEW YORK
LAW SCHOOL; VVA PROJECT MANAGERS
AND CONSULTANTS,

Defendants.

Administrative Order:

By letter dated July 20, 2009, counsel for the defendants timely requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70(e). By email dated August 5, 2009, counsel for the plaintiff consents to the request. The action is currently pending before the Hon. Carol Edmead (I.A.S. Part 35).

This action involves the breach of a contract in connection with a construction project being built for New York Law School at 185 West Broadway in Lower Manhattan. The plaintiff Interstate Industrial Corp. (Interstate) is a contractor to defendant Pavarini McGovern, LLC, and seeks damages of over \$5.9 million for foundation and slurry wall support work it allegedly performed at the site between February 12 and May 19, 2008. Uniform Rule 202.70(b)(1) provides that actions will be heard in the Commercial Division where the principal claims involve or consist of breach of contract and the breach is alleged to arise out of business dealings. Subsection (b)(3) designates as commercial “[t]ransactions involving commercial real property.” Both category of cases have a \$150,000 monetary threshold. Thus, this matter easily falls within the standards for assignment of cases to the Commercial Division.

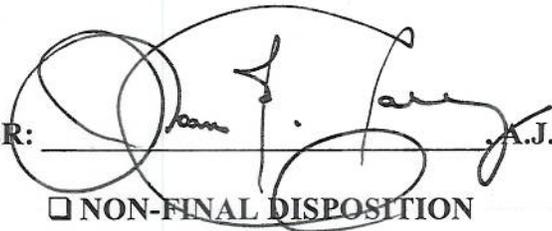
Defendants, who filed the Request for Judicial Intervention (RJI), designated the action as a commercial case. However, the action was assigned to Justice Edmead due to the fact that the RJI properly listed, as a related action, another action which arises from the same construction project, entitled Hallen Welding Service Inc. v Interstate Industrial Corp. and New York Law School, Index No. 603371/08 (the Hallen Welding action). Defense counsel advises that the Hallen Welding action has been settled in principle and

should be discontinued very shortly. In the Hallen Welding action, a subcontractor of plaintiff Interstate sues to recover \$128,158 for work relating to the welding of steel angles. I agree with the defendants that the Hallen Welding action is not substantially related to this action, and that judicial economy would not be served by having the same judge handle both actions.

Accordingly, defendants' request to transfer this action into the Commercial Division is granted. The Motion Support Office is directed to assign this case at random to a Justice of the Commercial Division. (A motion to state and number the plaintiff's allegations is currently returnable in the Motion Submissions Part on August 7, 2009).

Dated: August 5, 2009

ENTER: _____



Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION