

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

PRESENT: Hon. Joan B. Carey  
Administrative Order

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RIVERBANK SOUTH OWNERS CORP.,

Plaintiff,

- v -

INDEX NO. 601695/09

DOWNTOWN PROPERTIES INC.,  
RICHARD BASSIK, CHIN & HO, CPAs  
and JP MORGAN CHASE BANK,

Defendants.

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Administrative Order:

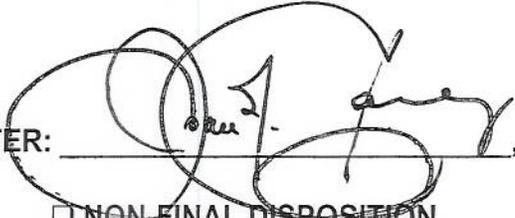
By letter dated June 22, 2009, defendant JP Morgan Chase Bank (Chase) applies for a transfer of this action from I.A.S. Part 35 (Edmead, J.) to the Commercial Division pursuant to Uniform Rule 202.70. By electronic correspondence dated June 24, 2009, plaintiff opposes Chase's application, arguing that the action is properly assigned to Justice Edmead as related to two other pending actions, entitled 115 Spring Street Company v. Richard A. Bassick and Downtown Properties, Inc., Index No. 105592/09 (assigned to Justice Edmead on May 4, 2009) and 115 Spring Street Company v. JP Morgan Chase Bank, N.A., Index No. 107569/09 (currently unassigned) (the 115 Spring Street actions). There is no response from Chase's three co-defendants, who, as of June 22nd, had not yet appeared in the action and, thus, were not copied on Chase's letter application.

Chase's application is timely, and there is no doubt that this action fits within the definition of a commercial case set forth in Uniform Rule 202.70(b) and meets the \$150,000 monetary threshold for New York County. Nevertheless, a party's request for assignment to the Commercial Division may be trumped where there is a related case pending in a non-commercial part for the obvious reasons of judicial economy and the avoidance of inconsistent rulings. However, I am not convinced that this action is truly related to the 115 Spring Street actions as they involve different buildings and different alleged thefts of the buildings' funds. In addition, the decision as to whether an action is properly related to another pending action should be raised, in the first instance, with Justice Edmead. See Section I(B) of the "Summary of Courthouse Procedures;" see also Morfesis v. Wilk, 138 AD2d 244 (1st Dept. 1988). Accordingly, Chase's request for a

transfer to the Commercial Division must be deferred until such time as counsel for all appearing defendants has had an opportunity to respond to the request,<sup>1</sup> and Justice Edmead has been given an opportunity to determine if this action is, in fact, properly related to the 115 Spring Street actions.

For these reasons, Chase's application is denied, with leave to renew on notice to all appearing parties after the issue of whether the actions are related has been raised with Justice Edmead.

Dated: June 25, 2009

ENTER:  , A.J.

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION

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<sup>1</sup>I am informed that defendants Downtown Properties Inc. and Richard Bassik have now appeared in this action.