

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

PATRICK EGAN,

Plaintiff,

- v -

INDEX NO. 653375/2011

TRADINGSCREEN INC.; and PHILIPPE
BUHANNIC,

Defendants.

Administrative Order:

By letters dated January 27 and 31, 2012, defendant TradingScreen, Inc. (TradingScreen) timely requests that this action be assigned to the Commercial Division. Defendant Patrick Buhannic joins in the request. Plaintiff Patrick Egan objects to a transfer by his counsel's letters dated January 30th and 31st. The action is presently pending in I.A.S. Part 61 (Singh, J.).

This complaint in this action alleges that, on August 2, 2010, Mr. Egan was fired from his job as TradingScreen's Head of Sales for the Americas for reporting that Phillipe Buhannic, the company's CEO, was diverting company assets and evading payment of U.S. income taxes. Mr. Egan claims he was also denied the customary severance package, and denied any compensation for his stock options and restricted stock in the company. The first cause of action asserts a claim for violation of Delaware's whistleblower statute, 19 Del. Ch. § 1703. Other causes of action include claims for unpaid compensation under Delaware's labor laws, breach of his employment contract, breach of the covenant of good faith and fair dealing, tortious interference with contract, unjust enrichment and promissory estoppel.

Counsel for TradingScreen contends that this action falls within the standards set out in Uniform Rule 202.70 (b) (1) for assignment to the Commercial Division. Plaintiff's counsel argues that the breach of contract claims arise out of discriminatory practices, which are specifically excluded under Uniform Rule 202.70 (b) (1).

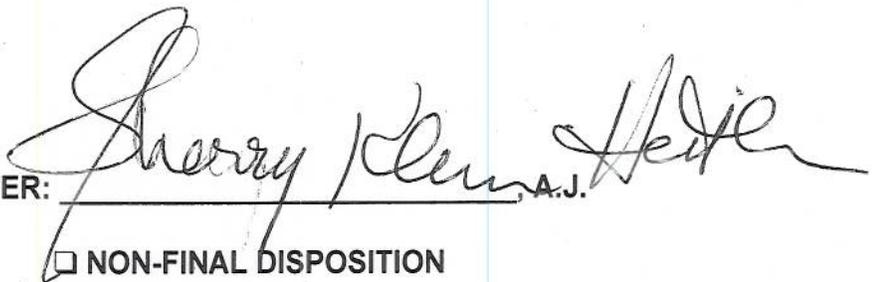
The principal claim in this action is for retaliatory discharge for being a whistleblower. Similar to claims involving age, sex, race, and disability discrimination, the firing of an employee as a means of punishing that employee for reporting violations of the law is a form of discrimination. See 19 Del. Ch. § 1703 ("An employer shall not

discharge, threaten, or otherwise discriminate against an employee [for reporting violations of the law].”¹ While a claim has been asserted that TradingScreen breached Mr. Egan’s employment agreement and other agreements regarding his stock options and restricted stock, the principal claim in this dispute is whether Mr. Egan’s employment at will status with the company was illegally terminated for discriminatory reasons. As such, it does not meet the standards for assignment to the Commercial Division under Uniform Rule 202.70 (b).

For these reasons, TradingScreen’s request for reassignment to the Commercial Division is denied.

Dated: February 6, 2012

ENTER:

 Sherry Klemm, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION

¹See also Dodd-Frank Wall Street Reform and Consumer Protection Act, 15 USC § 78u-6 (creating a private cause of action for whistleblowers of securities fraud alleging retaliatory discharge or other forms of discrimination).