

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

MARTIN SCOTT WINES LTD.,

Plaintiff,

- v -

INDEX NO. 151245/12

GROTH VINEYARDS & WINERY,

Defendant.

Administrative Order:

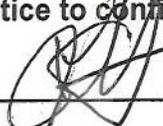
By letter dated March 29, 2012, defendant's counsel timely requests that this action be transferred into the Commercial Division. Plaintiff opposes the transfer.

Uniform Rule 202.70(b)(1) provides that actions in which the principal claims are for "[b]reach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings" will be heard in the Commercial Division, provided the \$150,000 monetary threshold for New York County is met or equitable or declaratory relief is sought.

There is no doubt that this case meets the standards for assignment to the Commercial Division. The complaint alleges a claim for breach of a wine distributorship agreement between the parties, based on defendant's alleged lack of proper termination notice of the agreement, and seeks monetary damages in the amount of \$500,000, as well as injunctive relief. In an opposition letter dated April 2, 2012, plaintiff's counsel states that it was "ill advised" of him to assert in the complaint that there was a breach of the agreement, because plaintiff's claim is actually based on defendant's failure to comply with the case law governing termination notice. This argument does not change the fact that this case meets the standards for assignment to the Commercial Division, as Uniform Rule 202.70 (b) (1) includes violations of common law where the violation is alleged to arise out of business dealings.

Accordingly, the request for a transfer to the Commercial Division is granted. The Motion Support Office is directed to randomly reassign this case to a Justice of the Commercial Division. An Order to Show Cause is currently scheduled for a hearing before Justice Coin (I.A.S. Part 63) on April 11, 2012. The parties are to contact the part clerk of the newly assigned Commercial Division Justice to confirm the hearing date.

Dated: April 4, 2012

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION