

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

SENIOR HEALTH PARTNERS, INC.,

Petitioner,

-against-

INDEX NO. 651414/11

ALWAYS THERE HOME CARE, INC. and
CHARLES ZIZI, a/k/a HANS CHARLES ZIZI,

Respondents.

Administrative Order:

By letter dated June 10, 2011, counsel for the petitioner requests that this special proceeding to stay an arbitration be assigned to the Commercial Division. There is no opposition to the request.

This is a special proceeding to stay an arbitration commenced by the respondents. In the demand for arbitration, respondents contend that petitioner breached the parties' Provider Agreement and owes approximately \$181,462.89 to respondents for their provision of services to members in petitioner's managed long-term care plan.

Subdivision (b) (1) of Uniform Rule 202.70 provides that actions in which the principal claims are for breach of contract where the breach or violation is alleged to arise out of business dealings should 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. The Commercial Division also hears "[a]pplications to stay . . . arbitration . . . and related injunctive relief pursuant to CPLR Article 75 involving any of the foregoing enumerated commercial issues – without consideration of the monetary threshold" (Uniform Rule 202.70 [b] [12]).

Although petitioner's counsel filed the appropriate Commercial Division addendum when he filed the Request for Judicial Intervention (RJI), the circle for "Special Proceeding - CPLR Article 75 (Arbitration)" was checked rather than the circle for "Other Commercial." Since the new RJI form is admittedly confusing in this regard, petitioner's request will be granted.

The Motion Support Office is directed to reassign this case at random from I.A.S. Part 61 (Singh) to a Justice of the Commercial Division. (The petition is currently returnable in the E-filed Submissions Part on June 24, 2011.)

A handwritten signature in black ink, appearing to be 'S. Singh', is written over a long diagonal line that spans the width of the page.

Dated: June 22 2011

ENTER: , A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION