

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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TOWERS WATSON PENNSYLVANIA, INC.,

Plaintiff,

- v -

INDEX NO. 651767/12

THOMAS F. MCGRATH, III and COOPER GAY  
SWETT & CRAWFORD LTD.,

Defendants.

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**Administrative Order:**

By letter dated June 15, 2012, counsel for the defendants requests a transfer of this action to the Commercial Division pursuant to Uniform Rule 202.70.

The Request for Judicial Intervention (RJI) was allegedly personally served on the defendants on May 31, 2012, together with the Summons and Complaint and an Order to Show Cause seeking preliminary injunctive relief. Defense counsel was not retained until June 12th, and promptly made this request to transfer the case to the Commercial Division. Under these circumstances, the application is deemed timely. See Uniform Rule 202.70 (e).

This dispute is brought by the former employer of defendant Thomas F. McGrath III against him and his new employer, defendant Cooper Gay Swett & Crawford Ltd., seeking monetary and injunctive relief for the alleged breach of a "Non-Disclosure and Non-Solicitation Agreement." As such, it clearly falls within the definition of a commercial case. Uniform Rule 202.70 (b) (1) provides that actions in which the principal claims involve "breach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), . . . where the breach . . . is alleged to arise out of business dealings (e.g., . . . ; trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)" may be brought in the Commercial Division provided that the \$150,000 monetary threshold for New York County is met or equitable or declaratory relief is sought. Therefore, defendants' request for a transfer to the Commercial Division is granted.

The Motion Support Office is directed to randomly reassign this case from I.A.S. Part 63 (Coin, J.) to a Justice of the Commercial Division, who is requested to re-

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schedule the return date of plaintiff's order to show cause to a date on or as near to the current return date of July 11, 2012 as his or her schedule permits.

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

Dated: June 18, 2012

ENTER: Jay K. Hester, A.J.

Check one:  FINAL DISPOSITION       NON-FINAL DISPOSITION