

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

---

TIMOTHY WATERS,

Plaintiff,

- v -

INDEX NO. 109454/11

NETJETS INC. and MARQUIS JET PARTNERS, INC.,

Defendants.

---

Administrative Order:

By letter dated September 1, 2011, defense counsel requests that this action be transferred into the Commercial Division pursuant to Uniform Rule 202.70(e). Plaintiff does not object to assignment of this case to the Commercial Division, per his counsel's September 7, 2011 letter.

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 (e.g., . . . trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)" 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 claims in this action arise out of a written "Employee Confidentiality Agreement and Restrictive Covenant" plaintiff signed when he commenced his employment with defendant Marquis Jet Partners, Inc. as a salesperson. By this action, plaintiff sues for a declaratory judgment that the post-employment non-compete and non-solicitation provisions of this agreement are unenforceable and other relief.

Accordingly, the request for a transfer to the Commercial Division is granted. The Trial Support Office is directed to randomly reassign this case to a Justice of the Commercial Division, and to reschedule the preliminary conference, presently scheduled on October 3, 2011 in Part 44 (Tingling, J.), to the earliest date possible.

Dated: September 9, 2011

ENTER: \_\_\_\_\_, A.J.

  
HON. SHERRY KLEIN HEITLER  
ADMINISTRATIVE JUDGE

Check one:  FINAL DISPOSITION       NON-FINAL DISPOSITION