

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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

MICHAEL LARKO,

Plaintiff,

- v -

INDEX NO. 601196/07

EURO BROKERS, INC.;
MAXCOR FINANCIAL GROUP, INC.;
BCG PARTNERS LP; and CANTOR
FITZGERALD,

Defendants.

Administrative Order:

By letter dated May 20, 2008, counsel for defendants submits an application for re-assignment of this case from I.A.S. Part 36 (Ling-Cohan, J.) to the Commercial Division.

The time to submit such an application, as set forth in Uniform Rule 202.70(e), is within ten (10) days after receipt of a copy of the Request For Judicial Intervention (RJI). Plaintiff filed an RJI in this matter on May 9, 2008 in connection with a request for a preliminary conference. Defense counsel fails to state in his letter when he received the RJI, and, thus, the court cannot judge the timeliness of the application.

Uniform Rule 202.70(b)(1) provides that breach of contract claims arising from employment agreements will be assigned to the Commercial Division, but not claims that principally involve alleged discriminatory practices. In addition, the damages sought must exceed \$100,000 for New York County or equitable or declaratory relief be sought. A review of the complaint indicates that the principal claims in this action are for monetary damages due to defendants' alleged discrimination and retaliation against the plaintiff based on age and disability. There is no certification as to the amount of damages sought nor any explanation as to how the request for declaratory relief in the wherefore clause of the complaint offers any real relief to the plaintiff apart from his claims for compensatory damages and attorneys' fees.

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

Dated: May 21, 2008

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION