

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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

- v -

INDEX NO. 404620/06

COVENTRY FIRST LLC, MONTGOMERY
CAPITAL, INC., THE COVENTRY GROUP, INC.,
and REID S. BUERGER,

Defendants.

Administrative Order:

By letter dated February 9th, counsel for the plaintiff seeks review, pursuant to Uniform Rule 202.70 (f) (2), of the Honorable Bernard Fried's Order transferring this action from Judge Fried's Commercial part to a Non-Commercial part. Defendants join plaintiff's application.

Uniform Rule 202.70 (f) (2) provides that an aggrieved party may seek review of the designation of an action to a Non-Commercial part within ten days of the party's receipt of such designation. Judge Fried's Order was dated February 2nd, and therefore, the Court finds the plaintiff's application timely.

On December 19, 2006, defendants filed three motions, seeking dismissal of the action against all defendants and to compel arbitration. It was in connection with these three motions that defendants filed a Request for Judicial Intervention (RJI) . The defendants designed the action as "Other Commercial" on the RJI. However, next to this designation, a handwritten notation states "Art. 75." Further, the RJI identified the motion pending as a motion to compel arbitration.

Plaintiff's counsel contends that this action meets the standards for assignment to the Commercial Division, because it seeks over \$100,000 in damages, and the action involves claims of fraud, antitrust violations, and breaches of fiduciary duty. Defendants further add that the allegations of statutory violations arise out of business dealings.

Uniform Rule 202.70 (b) (1) provides that actions will be heard in the Commercial Division where the principal claims involve or consist of breach of contract or fiduciary duty, fraud, or statutory law violations that arise out of

business dealings. A review of the complaint reveals that this action does involve such claims, and therefore, should be reassigned to the Commercial Division. Further, Uniform Rule 202.70 (b) (12) provides that applications to compel arbitration and affirm or disaffirm arbitration awards pursuant to Article 75, involving any enumerated commercial issues under Uniform Rule 202.70 (b), will also be heard in the Commercial Division.

Therefore, plaintiff's request is granted. Accordingly, the Motion Support Office is directed to reassign this case the Commercial Division. (There are four motions [seq. 001, 002, 003, and 004] currently returnable on March 28, 2007.)

Dated: February 16, 2007

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION