

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

PRESENT: Hon. Jacqueline Silbermann  
Administrative Order

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TILCON NEW YORK INC.,

Plaintiff,

- v -

INDEX NO. 404064/06

PILE FOUNDATION CONSTRUCTION CO., INC.  
ANTHONY RIVARA, and FEDERAL INSURANCE  
COMPANY,

Defendants.

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Administrative Order:

By letter dated October 17, 2006, counsel for defendants opposes plaintiff's request for assignment of this action to the Commercial Division.

This action was originally filed in Rockland County. By order dated September 11, 2006, the Hon. Carol Edmead granted defendants' motion for a change of venue to New York County. After the file was transferred here and assigned a New York County index number, plaintiff filed a Request for Judicial Intervention by mail on October 12th. In accordance with Uniform Rule 202.70(d), plaintiff's counsel submitted a brief signed statement justifying the Commercial Division designation and the action has accordingly been assigned to the Hon. Herman Cahn (Part 49).

Defendants oppose assignment of this action to the Commercial Division on the ground that Judge Edmead has already determined that this action does not qualify for the Commercial Division in a footnote to her decision and order granting a change of venue. However, pursuant to Uniform Rule 202.70(f), the Administrative Judge always has the power to review such determinations.

There is no question that this action should remain in the Commercial Division, because it involves a breach of contract claim arising out of the parties' business dealings and seeks damages well in excess of the \$100,000 monetary threshold for this county.

Accordingly, defendant's application to transfer this action out of the Commercial Division is denied.

Dated: October 23, 2006

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

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION