

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

PRESENT: HON. JACQUELINE W. SILBERMANN
Administrative Judge Justice

PART _____

Vizit One,

INDEX NO. 600512/2006

- v -

Steven Ellis, et al.

MOTION DATE _____

MOTION SEQ. NO. _____

MOTION CAL. NO. _____

Administrative Order

The following papers, numbered 1 to _____ were read on this motion to/for _____

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

Cross-Motion: Yes No

~~Upon the foregoing papers, it is ordered that this motion~~

Counsel for defendant Chyron Corporation, by letter request dated March 7, 2006, seeks a transfer of this case to the Commercial Division. The individual co-defendant joins in this request. Plaintiff opposes the request. The Request for Judicial Intervention was filed on Feb. 16, 2006 and the application is therefore governed by Uniform Rule 202.70. The RJI filed by plaintiff did not designate the case as a Commercial one. Defendant states, and plaintiff does not dispute, that the RJI was not served on defendant with the order to show cause and supporting papers. Thus, Section 202.70 (e), requiring an application for a transfer into the Division to be made within 10 days from receipt of a copy of the RJI, is not applicable.

This case involves a restrictive covenant in an employment agreement that plaintiff allegedly had with the individual defendant, as well as alleged tortious interference by the corporate defendant. Section 202.70 (b) (1) provides that actions for breach of business contracts and business tort, including those involving restrictive covenants and employment agreements,

Dated: _____ J.S.G.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

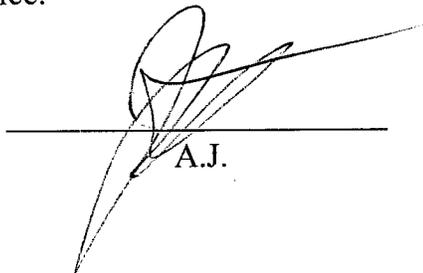
MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

will be heard in the Division. The complaint here seeks damages in an unspecified amount and equitable relief, which is sufficient under Sub. (b). Plaintiff states that defendant has not articulated a compelling need for a transfer, but Section 202.70 is an element of the court's procedures designed to divide the work of the court in an orderly and efficient manner. A transfer is clearly appropriate.

Plaintiff expresses concern about delay and that concern should not be ignored in any case, but particularly one in which a business asserts that it is suffering on-going competitive harm from the breach of a restrictive covenant intended to avoid that sort of harm. However, the existing schedule on the order to show cause provides for submission of opposing papers by March 14, 2006 and reply papers by March 21, 2006, with no date set for argument. This case can be, and will be, reassigned to a Division Justice today and that Justice's Part will be notified of the transfer today so that there will be no delay in the processing of the matter.

The Motion Support Office is directed immediately to reassign this matter at random to a Commercial Division Justice.

Dated: 3/8/06


A.J.