

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

**PRESENT: Hon. Jacqueline Silbermann
Administrative Order**

COUNTY GLASS & METAL INSTALLERS,

Plaintiff,

- v -

INDEX NO. 602939/07

**PAVARINI McGOVERN, LLC, GLASS
HOUSE DEVELOPMENT, LLC,**

Defendants.

Administrative Order:

By letter dated October 22, 2007, counsel for defendants Pavarini McGovern, LLC and Glass House Development, LLC timely requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70(e). No opposition to the request has been received. The action is currently pending before the Hon. Marcy Friedman (I.A.S. Part 57).

Although plaintiff's counsel designated this lawsuit as a contract matter on the Request For Judicial Intervention that he filed on October 10, 2007, it was not assigned to the Commercial Division, apparently due to the absence of the supporting statement required by Uniform Rule 202.70(d)(2). Defendants' counsel contends that this action meets the standards for assignment to the Commercial Division because plaintiff's complaint alleges that defendants breached a written agreement whereby plaintiff was hired by defendants to perform certain work on the construction of a commercial building known as the Urban Glass House, located at 330 Spring Street, New York, New York. The complaint also asserts causes of action for breach of the covenant of good faith and fair dealing, unjust enrichment and the foreclosure of a mechanic's lien, and the amount sought on the lien foreclosure claim is \$720,498.42.

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 and the breach is alleged to arise out of business dealings. Subsection (b)(3) designates as commercial "[t]ransactions involving commercial real property." Both category of cases have a \$100,000 monetary threshold. Thus, this matter falls within the standards for assignment of cases to the Commercial Division.

For these reasons, the defendants' request is granted and the Motion Support Office is directed to assign this case at random to a Justice of the Commercial Division. (Plaintiff's order to show cause for a protective order is currently returnable in Part 57 on November 8, 2007).

Dated: October 24, 2007

ENTER:


~~HON. JACQUELINE W. BERNARDI~~, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION