

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

PRESENT: Hon. JACQUELINE W. SILBERMAN  
Administrative Judge Justice

PART \_\_\_\_\_

RSG Caulking & Waterproofing, Inc.,  
Petitioner

INDEX NO. 601738/2006

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. \_\_\_\_\_

J.P. Morgan Chase & Co.,  
Respondent

MOTION CAL. NO. \_\_\_\_\_

Administrative Order

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

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

Answering Affidavits -- Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

PAPERS NUMBERED

Cross-Motion:  Yes  No

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

Respondent seeks a transfer of this matter to the Commercial Division pursuant to Uniform Rule 202.70 (b) (12). A Request for Judicial Intervention was filed on May 16, 2006 and an order to show cause was signed the following day. Since this application was made on May 22, 2006, it is timely (Rule 202.70 (e)). Although the petitioner obtained a commercial index number, it evidently did not designate the case as a commercial one on the RJI. Petitioner has not submitted opposition to this request.

This matter is brought pursuant to CPLR 7510 to confirm an arbitration award. The award arises out of a dispute between the parties concerning petitioner's performance of a contract to carry out certain work on respondent's building, One Chase Manhattan Plaza. Although the papers do not provide detail on the question, it appears that the parties disagreed as to whether the contract had been breached by one or the other party. The arbitrators awarded petitioner a sum in excess of \$ 825,000, for lost profit and overhead, subcontractor costs, mock-ups and insurance, among other things.

Dated: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

JSC

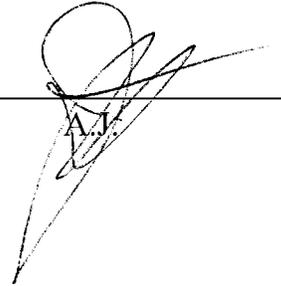
Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST  REFERENCE

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

Subdivision (b) (12) of the Rule provides that applications to confirm arbitration awards constitute commercial matters appropriate to the Commercial Division, without regard to the sum involved, if the award has to do with commercial issues, which include breach of contract (Subd. (b) (1)). Here the sum at issue far exceeds the threshold for the Division. Therefore, the Motion Support Office is directed to reassign this matter at random to a Justice of the Commercial Division.

Dated: 5/25/06

  
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