

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

PRESENT: HON. JACQUELINE W. SILBERMAN
Administrative Judge Justice

PART _____

Russian Samovar, Inc., et al.

INDEX NO.

117705/2005

- v -

Transit Worker's Union of America, 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.~~

Defendant Metropolitan Transportation Authority ("MTA") by letter dated April 3, 2006 to Hon. Norman Goodman, the County Clerk of New York County, submitted a copy of an Administrative Order of the Chief Administrative Judge and requested that, pursuant to that Order, this case be transferred to Hon. Theodore T. Jones, Administrative Judge of Kings County, who was designated in the Order to handle "applications relating to a transit strike in New York City" In this case, the plaintiffs seek to recover economic losses to their businesses alleged to have been caused by the transit strike in December 2005. Another defendant submitted a Request for Judicial Intervention in this matter and the case was assigned at random to Hon. Louis B. York.

Justice Jones has been advised of the request to transfer this case to him. He has taken the position that the matter does not fall within the category of applications contemplated by the Administrative Order. That is my view as well. This request is therefore denied.

~~Dated:~~ _____

J.S.C.

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

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

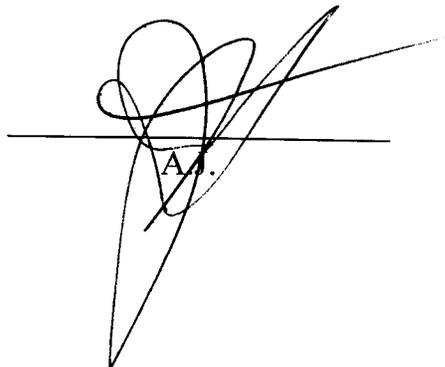
Counsel for the MTA, upon being informed of the RJI filed by the co-defendant and the assignment to Justice York, submitted a letter application to the undersigned, dated April 7, 2006, in which it requested that the case be assigned to the Commercial Division. The MTA asserts that this should be done because this appears to be a purported commercial class action and because the case alleges statutory and common law violations of a commercial nature (Uniform Rule 202.70 (b) (1)).

The plaintiffs here, being businesses, may have suffered economic losses from the transit strike. Nevertheless, the gravamen of this case is that the strike was illegal, in violation of the Taylor Law, and that the parties engaged in “negligence, malfeasance, and misfeasance” in undertaking, causing or allowing the strike. The Taylor Law is not a statute governing commercial activities in the sense contemplated by the standards for assignment of cases to the Commercial Division. The object of this law, of course, is to prohibit strikes by public employees. Subdivision (b) (1) of the Uniform Rule refers to a “statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings” This statute does not regulate business dealings. Nor if this is a purported class action is it a commercial one as contemplated by the Rule.

The request to transfer this matter to the Commercial Division is therefore denied.

Dated:

4/14/06

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right. The signature is written over a horizontal line.