

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

MOSHE ORLINSKY and others similarly situated,

Plaintiff,

- v -

INDEX NO. 601218/2010

GEICO INSURANCE COMPANY,

Defendant.

Administrative Order:

By letter dated July 7, 2010, counsel for plaintiff timely applies for a transfer of this action from I.A.S. Part 55 (Solomon, J.) to the Commercial Division pursuant to Uniform Rule 202.70. Defendant does not object to this application.

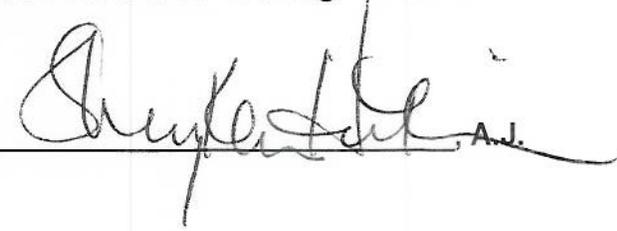
Plaintiff's counsel contends that this action meets the standards for assignment to the Commercial Division, because the action is a commercial class action involving claims of fraud and violations of New York General Business Law § 349.

Plaintiff alleges that defendant engaged in deceptive practices with respect to motorists, such as himself, who were involved in accidents with defendant's insureds. Specifically, plaintiff alleges that defendant misrepresented to plaintiff and others that they were liable for the underlying motor vehicle accidents and sought to recover from them, in subrogation, amounts that defendant paid to its insureds without any judicial determination.

Uniform Rule 202.70 (b) (5) provides that commercial class actions, without consideration of the monetary threshold, will be heard in the Commercial Division. An action is deemed commercial where the violation arises out of business dealings. Uniform Rule 202.70 (b) (1). Here, the alleged violations do not arise out of business dealings, and thus, do not fall within the standards for assignment to the Commercial Division.

For these reasons, plaintiff's request that this case be assigned to the Commercial Division is denied.

Dated: July 14, 2010

ENTER:  A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION