

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

ROBERT M. TAMBURINO, MICHAEL SCHILKE,
JOCELYN DAVIS, JOHN COSTELLOE, LUIS
GONZALEZ, and CAROLE IBATA,

Plaintiffs,

INDEX NO. 111432/2010

-v-

MADISON SQUARE GARDEN, LP,

Defendant.

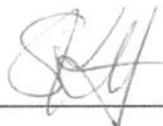
Administrative Order:

By letter dated December 16, 2010, counsel for plaintiffs requests that this action be transferred to the Commercial Division pursuant to Uniform Rule 202.70 (e). Counsel for defendant opposed this request on the grounds that this matter is not of a commercial nature.

The complaint alleges that defendant failed to pay "service fees" plaintiffs were owed for serving food and drinks at defendant's events in violation of New York Labor Law § 196-d. This action does not qualify as a commercial matter. The claims here involve a violation of a New York Labor Law arising out of defendant's alleged conduct in retaining gratuities. While plaintiffs assert that this case falls under Uniform Rule 202.70 (b) (1), this matter does not arise out of business dealings as intended by this Rule.

Accordingly, the request for assignment to the Commercial Division is denied.

Dated: December 23, 2010

ENTER: , A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION