

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

PRESENT: Hon. Joan B. Carey
Administrative Order

T-WOL LEASING CORP.,

Plaintiff,

- v -

INDEX NO. 100979/09

FIFTH AND 106TH STREET ASSOCIATES, LP,
And 106TH HOUSES, INC.,

Defendants.

(and a third-party action).

Administrative Order:

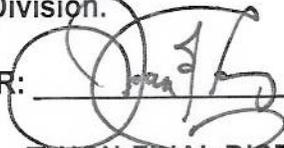
By letters dated May 22 and 27, 2009, counsel for the defendants timely requests a transfer of this action to the Commercial Division. Counsel for the plaintiff and third-party defendant consent to the application.

This action was designated as "Real Property - Landlord/Tenant" rather than one of the commercial categories on the RJI filed by plaintiff's counsel. Defense counsel argues that the case should be assigned to the Commercial Division, because the plaintiff sues for enforcement of two written agreements regarding a piece of commercial real property, and that the amount in controversy exceeds \$1.2 million.

I find that the action meets the criteria for assignment to the Commercial Division. This action is a commercial real estate dispute that is not limited to the payment of rent, but concerns the validity of two agreements between the parties concerning the plaintiff's status as the prime tenant of the space, and includes a claim of breach of fiduciary duty against one of the defendant's principals in connection with the execution of these agreements. See Uniform Rule 202.70 (b)(1) and (c)(3). The damages sought in connection with the second cause of action exceed the \$150,000 monetary threshold for New York County.

Accordingly, defendants' request for a transfer of this action to the Commercial Division is granted. The Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division.

Dated: May 29, 2009

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION