

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

PRESENT: Hon. Joan B. Carey  
Administrative Order

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WEST RAC CONTRACTING CORP. and  
KINGDOM ASSOCIATES, INC.,

Plaintiffs,

- v -

INDEX NO. 101786/09

FRANKLIN PLACE, LLC, HCP REAL ESTATE  
INVESTORS, LLC, and "JOHN DOE No. 1" through  
"JOHN DOE No. 10,"

Defendants.

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**Administrative Order:**

By letter dated April 8, 2009, counsel for the plaintiffs timely requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70(e). No opposition to the request has been received. The action is currently pending before the Hon. Michael D. Stallman (I.A.S. Part 7).

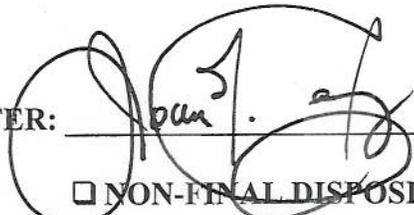
Plaintiffs' counsel contends that this action meets the standards for assignment to the Commercial Division because the action involves the breach of multiple construction contracts and seeks damages in the total amount of approximately \$2.6 million and the foreclosure of mechanic's liens totaling \$1.3 million. According to the complaint on file with the County Clerk, the action concerns a construction project located at 369-371 Broadway, New York, New York. Plaintiff West Rac Contracting Corp. sues the owner, Franklin Place, LLC, for breach of a construction management agreement. Plaintiff Kingdom Associates, Inc. sues to recover the value labor and materials furnished for concrete work on the project.

Uniform Rule 202.70(b)(1) provides that actions will be heard in the Commercial Division where the principal claims involve or consist of breach of contract and the breach is alleged to arise out of business dealings, and the \$150,000 monetary threshold for New York County is met. Thus, this matter falls within the standards for assignment of cases to the Commercial Division.

For these reasons, plaintiffs' request is granted and the Motion Support Office is directed to assign this case at random to a Justice of the Commercial Division. (A motion

to dismiss the complaint against defendant HCP Real Estate Investors, LLC is currently returnable in the Motion Submissions Part on April 20, 2009).

Dated: April 15, 2009

ENTER: , A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION