

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

JEFFERY S. KLEIN and GAYLE R. KLEIN,

Plaintiffs,

- v -

INDEX NO. 652061/2011

WALTER & SAMUELS, INC., ET AL.,

Defendants.

Administrative Order:

By letter dated February 27, 2012, counsel for plaintiffs timely requests that this action be assigned to the Commercial Division. Opposition has not been received to date.

Counsel contends that this action meets the standards for assignment to the Commercial Division, because this action involves claims for breach of contractual and fiduciary duties in connection with the design, construction, marketing, and management of a luxury condominium property purchased by the plaintiffs in 2006.

Uniform Rule 202.70 (b) (1) and (3) provide that actions in which the principal claims involve or consist of breach of contract where the breach or violation is alleged to arise out of business dealings, or transactions involving commercial real property not involving the payment of rent, will be heard in the Commercial Division, provided the monetary threshold is met or equitable or declaratory relief is sought. However, Uniform Rule 202.70 (c) (3) specifically provides that cases involving residential real estate disputes are non-commercial. This action does not meet the standards for the Commercial Division, as the principal claims in this action arise out of plaintiffs' dissatisfaction with their purchase of residential real property.

For the foregoing reasons, the request is denied.

Dated: March 2, 2012

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION