

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

PRESENT: HON. JACQUELINE W. SILBERMANN  
Administrative Judge Justice

~~PART~~ \_\_\_\_\_

Namasco Corp.

INDEX NO. 602358/2005

MOTION DATE \_\_\_\_\_

- v -

Pecker Iron Works, Inc.

MOTION SEQ. NO. \_\_\_\_\_

MOTION CAL. NO. \_\_\_\_\_

Administrative Order

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

Cross-Motion:  Yes  No

~~Upon the foregoing papers, it is ordered that this motion~~

Counsel for Museum of Jewish Heritage, third-party defendant, has prepared a motion to dismiss and a Request for Judicial Intervention. The case is designated on the RJI as a commercial contract case, but counsel seeks to have the case assigned to Hon. Ronald Zweibel as a related matter.

The case that is the basis for counsel's request, Pecker Iron Works, Inc. v. Namasco Corp., Index No. 602335/2003, has been concluded. In view of this, under the court's standard procedures, the clerk's office should assign this new case without regard to the related-case designation. It would not be correct for me to direct that, notwithstanding our general procedures, the matter be assigned to Justice Zweibel.

Justice Zweibel is a Criminal Term Justice. As with his colleagues on the Criminal side, he is eligible to receive special proceedings, including those brought under CPLR Art. 75. The prior matter was an action, not a special proceeding. When a motion was made in that case, an RJI was filed that accurately designated the matter as an action (commercial contract). The

Dated: \_\_\_\_\_ J.S.C.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST  REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

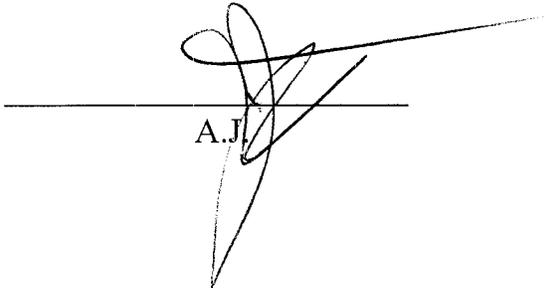
special proceeding box was not checked. However, the motion sought to dismiss and/or stay, pending arbitration, certain claims, and the reference to arbitration appears to have caused an inaccurate assignment of the case by the clerk as though it were a special proceeding. The court's computer continues to list the case as a special proceeding (Art. 75 arbitration) and shows the RJI type as "petition." Had the error not been made, the case could not have been assigned to Justice Zweibel because Justices on the Criminal side are not eligible to receive assignments of actions. It is more appropriate to assign to Justices who carry full criminal caseloads the generally narrower special proceedings, which are usually resolved rather promptly on papers, rather than actions, which can last for years, often involve discovery disputes and will culminate, absent settlement, in a trial.

The RJI now before me involves, as noted, an action. Since Justice Zweibel is not eligible to receive such matters, the request cannot be granted for this reason too.

Furthermore, Justice Zweibel's involvement with the earlier matter appears to have largely been limited to service and related preliminary issues. He did not have time or occasion to become immersed in the merits.

Accordingly, the Clerk of the Motion Support Office is directed to assign this case at random to a Justice of the Commercial Division in accordance with the designation on the RJI and in light of the sums at issue.

Dated: 10/10/05

  
A.J.