

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

PRESENT: Hon. Jacqueline Silbermann  
Administrative Order

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595 ELEVENTH LLC,

Plaintiff,

- v -

INDEX NO. 604446/2006

HAMPSHIRE HOTEL & RESORTS, LLC,  
CONSTANCE B. CARTWRIGHT, individually, and  
CONSTANCE B. CARTWRIGHT as Trustee of the  
TRUST u/w/o GEORGE F. BAUERDORF, deceased,

Defendants.

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Administrative Order:

By letter dated February 26, 2007, counsel for plaintiff requests that this action be transferred to the Commercial Division pursuant to Uniform Rule 202.70. The court is advised that the attorneys for the defendants do not object.

Uniform Rule 202.70(e) provides that an application to transfer an action into the Commercial Division must be made within 10 days of the party's receipt of a copy of the Request for Judicial Intervention (RJI). The RJI was served by defense counsel on or about February 23rd in connection with a motion to dismiss the complaint. The action was designated as "\*Other Real Property" on the RJI. Therefore, defendants' application is timely.

Uniform Rule 202.70(b)(1) provides that actions in which the principal claims involve or consist of "breach of contract or breach of fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings" will be heard in the Commercial Division, provided the \$100,000 monetary threshold for New York County is met or equitable or declaratory relief is sought. Transactions involving commercial real property are also presumptively within the jurisdiction of the Commercial Division. Uniform Rule 202.70(b)(3).

There is no question that this action meets the standards for assignment to the Commercial Division, because the litigation seeks specific performance of a purchase and sale agreement, whereby plaintiff agreed to purchase a triple net lease for

commercial real property located on Eleventh Avenue in Manhattan. Plaintiff also seeks damages in excess of \$3 million, and asserts claims for tortious interference with the agreement.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. (A motion to dismiss the complaint is presently returnable on March 19, 2007).

Dated: March 6, 2007

ENTER: \_\_\_\_\_, A.J.

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION