

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

WISEMARKIT, INC., Successor In Interest to
and converted from Wisemarkit, LLC,

Plaintiff,

-against-

INDEX NO. 652423/12

CHANDELIERS CREATIVE. INC, D.B.A. and
AKA CHANDELIER CREATIVE, INC.,

Defendant.

Administrative Order:

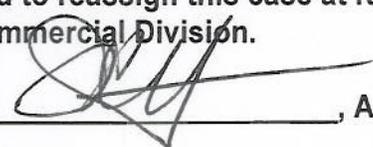
By letter dated August 21, 2012, plaintiff's counsel requests a transfer of this action to the Commercial Division pursuant to Uniform Rule 202.70. Defendant takes the position that this action is a breach of contract case seeking a recovery of \$40,000.

Uniform Rule 202.70(b)(1) provides that actions in which the principal claims involve or consist of breach of contract or business tort, where the breach or violation is alleged to arise out of business dealings, will be heard in the Commercial Division, provided the \$150,000 monetary threshold for New York County is met or equitable or declaratory relief is sought.

There is no question that the plaintiff's claims for breach of contract, fraud, and fraudulent inducement are commercial in nature. The issue is whether this action meets the \$150,000 monetary threshold. Accepting the complaint on its face, the plaintiff has alleged damages in excess of \$150,000. Thus, this actions meets the standards of the Commercial Division. However, if the newly-assigned Commercial Division judge finds, after further inquiry, that this action is actually seeking less than \$150,000, he or she may transfer this action to a non-commercial part in accordance with Uniform Rule 202.70 (f) (1).

Accordingly, the Trial Support Office is directed to reassign this case at random from I.A.S. Part 61 (Singh, J.) to a Justice of the Commercial Division.

Dated: August 27th, 2012

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION