

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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ALBERTO RIVERA Individually and on Behalf  
of All Other Persons Similarly Situated,

Plaintiff,

- v -

INDEX NO. 651559/14

WHOLE FOODS MARKET GROUP, INC.,

Defendant.

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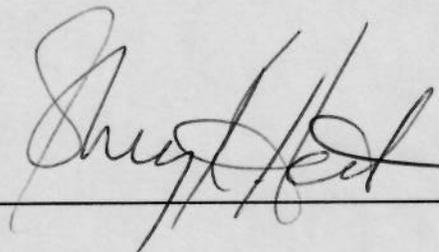
Administrative Order:

By letter dated August 27, 2014, counsel for defendant Whole Foods Market Group, Inc. ("Whole Foods") requests a transfer of this action to the Commercial Division pursuant to Uniform Rule 202.70. No opposition to the request has been received.

This is a putative class action brought by plaintiff Alberto Rivera, individually, and on behalf of all persons Whole Foods has employed as delivery personnel in the State of New York since May 21, 2008, who were non-exempt employees within the meaning of the New York State Labor Law, and whose tips and gratuities were allegedly unlawfully retained by Whole Foods. Defense counsel argues that this is a commercial class action, and, therefore, meets the standards for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (b) (5). However, while this is a class action, wage disputes under the labor law are not the kind of complex business disputes that belong in the Commercial Division. See, e.g., Jackson v U.S. Specialty Ins. Co., Index No. 156744/12 (Administrative Order dated April 29, 2013).

Accordingly, defendant's request for a transfer to the Commercial Division is denied.

Dated: September 4, 2014

ENTER: , A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION