

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

SKYCOM SRL,

Plaintiff,

- v -

INDEX NO. 155985/13

FRIARS 50TH STREET GARAGE, INC., et al.,

Defendants.

Administrative Order:

By letter dated June 5, 2014, counsel for defendants Flintlock Construction Services, LLC (Flintlock) and Vigilant Insurance Company (Vigilant) seeks review of an order by the Hon. Shirley Kornreich transferring this action out of the Commercial Division. In this letter, counsel states that plaintiff does not oppose this request. To date, no opposition to this request has been received from the other defendants.

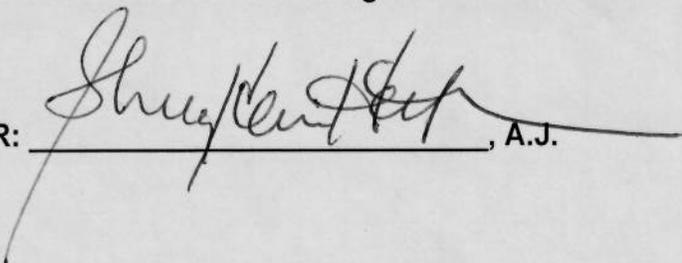
Uniform Rule 202.70 (b) (1) provides that actions in which the principal claims are for "[b]reach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings . . ." should be heard in the Commercial Division, provided the \$500,000 monetary threshold for New York County is met or equitable or declaratory relief is sought.

I must respectfully disagree with Justice Kornreich's determination that this action does not fall within the standards for assignment to the Commercial Division. The complaint seeks the foreclosure of a mechanic's lien arising out of the breach of a construction contract, as well as a claim for unjust enrichment.

Defendants Flintlock and Vigilant also argue that this action belongs with Commercial Division Justice Oing, as it is related to Skycom SRL v 136-140 42nd Street Owners, L.P., Index No. 155999/2013 (Action 2). The decision as to whether this action is related to Action 2 belongs, in the first instance, to the assigned Justice (see Section I[B] of the "Summary of Courthouse Procedures"). Therefore, I am reassigning this action to Justice Kornreich, who is to confer with Justice Oing as to whether these actions are related, and, if so, which Justice will handle both of them. I am forwarding this order along with a copy of the request letter to Justices Kornreich and Oing.

Accordingly, the General Clerk's Office is directed to reassign this case back to Justice Kornreich.

Dated: June 16, 2014

ENTER:  , A.J.