

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

LYONS TOWNSHIP TRUSTEES OF SCHOOLS,))	
TOWNSHIP 38 NORTH, RANGE 12 EAST,))	
)	
Plaintiff,))	No. 2018 CH 08263
)	
v.))	
)	Judge Diane J. Larsen
LYONS TOWNSHIP HIGH SCHOOL))	
DISTRICT 204,))	Calendar 7
)	
Defendant.))	

LT’S MOTION TO TRANSFER TO LAW DIVISION BASED ON JURY DEMAND

Defendant Lyons Township High School District 204 (“LT”), by its counsel and pursuant to Circuit Court of Cook County General Order No. 1.3, respectfully asks this Court, based on LT’s previously filed jury demand, to transfer this case to the Presiding Judge of the Chancery Division for the purpose of reassigning this case to the Law Division (and eventually, its Commercial Calendar).

Factual Background

Plaintiff Lyons Township Trustees Of Schools Township 38 North, Range 12 East (“the TTO”) initiated this action with the filing of a single-count Complaint. The Complaint seeks a declaratory judgment that the TTO is entitled to effect payment from funds it hold in LT’s agency account to the TTO’s own account, based on certain invoices that the TTO sent to LT. Although the Complaint does not identify a specific legal theory supporting its request for declaratory relief, it seems to be in the nature of a claim for account stated for charges issued under the Illinois School Code.

In response, LT filed a jury demand, as well as a multi-count Counterclaim. In the Counterclaim, LT seeks monetary damages and declaratory judgments based on common law

claims, the provisions of the Illinois School Code, financial impropriety at the TTO, and breaches of the TTO's fiduciary duties to LT. At least some of the claims and counterclaims in this case will be triable to a jury, and the TTO did not raise any objection to LT's jury demand. Nor did the TTO object to LT's jury demand in the prior and still-pending case, which involves the exact same legal claim the TTO made here, just for an earlier time period.

Argument

Circuit Court of Cook County General Order No. 1.3(d) authorizes this Court to transfer this case: "For the convenience of parties and witnesses and for the more efficient disposition of litigation, a judge, upon motion of any party may transfer any action pending before that Judge to the Presiding Judge of the division or district for the purpose of transferring the action to any other department, division or district."

The normal approach in the situation presented in this case, where a jury demand is filed in a Chancery action, is to transfer the case to the Law Division. This permits a single Circuit Judge (on the Commercial Calendar, for this case) to preside over all proceedings in this case. *See, e.g., Peter G. Georges, Inc. v. Feldon Building Corp.*, 61 Ill. App. 3d 631, 634 (1st Dist. 1978).

Transferring less than the entire case to the Law Division is a recipe for piecemeal litigation and avoidable trial court error. *See Horwitz v. Sonnenschein Nath & Rosenthal*, 2018 IL App (1st) 161909 (trials of claims in case were split between Law Division and Chancery Division, leading to two separate trials, an erroneous bench court ruling, and an avoidable appeal on procedural grounds).

Furthermore, keeping this case in the Chancery Division through summary judgment proceedings, and only then transferring the case to the Law Division for a jury trial, is an equally problematic approach. Indeed, that inefficient approach is what occurred in previous litigation

between the TTO and LT, which still is pending in the Chancery Division. LT and the TTO proceeded with a 2013 complaint and 2014 counterclaim in Chancery, despite LT's jury demand. (LT's current counsel was not involved in the first 3 years of the earlier case.) Judge Hall informed the parties that she will resolve the pending summary judgment motion, and then transfer the entire case to the Law Division for jury trial in the event the case is not resolved in summary judgment. This approach was not an ideal use of judicial resources.

WHEREFORE, LT respectfully requests this Court to transfer this case to the Presiding Judge of the Chancery Division for eventual reassignment to the Law Division's Commercial Calendar.

Respectfully submitted,

LYONS TOWNSHIP HIGH SCHOOL
DISTRICT 204

By s/Jay R. Hoffman
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CERTIFICATE OF SERVICE

Jay R. Hoffman, an attorney, certifies that on November 16, 2018, he caused the foregoing pleading to be served by email on the following attorney:

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s/Jay R. Hoffman