

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

PRESENT: Hon. Peter H. Moulton
Administrative Order

RICKY ZEGELSTEIN, M.D.,
CUSTOM ANESTHESIA SERVICES, P.C., and
INNOVATIVE ANESTHESIA SOLUTIONS, P.C.,

Plaintiffs,

- v -

INDEX NO. 158433/15

HAROON CHAUDHRY, M.D.,

Defendant.

Administrative Order:

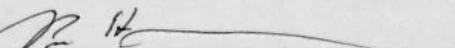
By letter dated May 11, 2016, counsel for defendant requests assignment of this action to the Commercial Division pursuant to Uniform Rule 202.70 (e), and, specifically, to the Hon. Anil Singh as related to Ricky Zegelstein, M.D., et al. v Michael J. Faust, M.D., et al., Index No. 651198/14 (Chaudry I). By letter dated May 17, 2016, plaintiffs' counsel opposes the application on the grounds that it is untimely and that it does not meet the \$500,000 monetary threshold for New York County.

This action was commenced on August 4, 2015, and the complaint was purportedly served by November 24, 2015. Although defendant denies proper service, he became aware of this action by at least December 24, 2015, when the parties executed a stipulation extending defendant's time to appear. The Request for Judicial Intervention (RJI) and Commercial Division Addendum were filed on April 15, 2016. Presumably, because the RJI and Addendum were not filed within 90 days of service of the complaint (see Uniform Rule 202.70 [d]), the case was assigned by the clerk's office to General I.A.S. Part 37 (Engoron, J.). Although the RJI listed Chaudry I as related, since Chaudry I is listed as disposed in the court's case management system, this new action was not assigned to Justice Singh as a related matter (see Operations Manual, § I [D] [2]).

Defendant has not demonstrated good cause to excuse the 90-day time period for requesting assignment to the Commercial Division. In addition, while the original complaint sought damages in excess of \$5 million, plaintiffs' new counsel contends that a cross motion to amend the complaint to seek an award of only approximately \$25,000 is planned.

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

Dated: May 20, 2016

ENTER: , A.J.