

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

132 WEST 31ST STREET BUILDING
INVESTORS II, LLC,

Plaintiff,

- v -

INDEX NO. 652288/2012

ASA INSTITUTE OF BUSINESS AND
COMPUTER TECHNOLOGY, INC.,

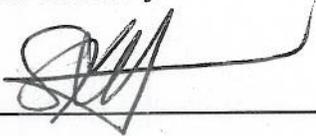
Defendant.

Administrative Order:

By letter dated August 24, 2012, counsel for plaintiff requests that this action be assigned to the Commercial Division. To date, no opposition has been received.

A Request for Judicial Intervention (RJI) was e-filed on August 10, 2012 by defendant's counsel in connection with a motion to dismiss. The box for "Commercial - Contract" matters was checked, but defendant's counsel did not submit the required Commercial Division RJI Addendum. Thus, the case was assigned to a non-commercial part. Uniform Rule 202.70 (e) states that "[i]f a case is assigned to a non-commercial part because the filing party did not designate the case as 'commercial' on the RJI, any other party may apply by letter application . . . within ten days after receipt of a copy of the RJI, for a transfer of the case into the Commercial Division." Where, however, the RJI designates the case as a commercial matter, but is not assigned to the Commercial Division due to the absence of the required statement in support, an error by the clerk's office or some other reason, the court has construed the 10-day time limit as running from the assignment of the case to a non-commercial part. This case was assigned to the Hon. Ellen Coin on August 13, 2012, and the application for a transfer was made on August 24, 2012. Thus, the application is denied as untimely.

Dated: August 28, 2012

ENTER: , A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION