

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

**PRESENT: Hon. Jacqueline Silbermann  
Administrative Order**

**JAMES C. HERRMANN & ASSOCIATES LTD.,**

*Plaintiff,*

- v -

INDEX NO. 603144/2007

**MEDICAL LIABILITY MUTUAL INSURANCE  
COMPANY,**

*Defendant.*

**Administrative Order:**

**By letter dated April 17, 2008, counsel for plaintiff requests that this action be re-assigned from I.A.S. Part 7 (Stallman, J.) to the Commercial Division pursuant to Uniform Rule 202.70. The Court has not received an objection to plaintiff's application.**

**Plaintiff filed a Request for Judicial Intervention (RJI) on April 9, 2008, requesting a preliminary conference, but did not designate the case as a commercial matter, rather the box for "Other Matters" was checked. The action was thus assigned to Justice Stallman, a non-commercial part. In his request for a transfer, plaintiff's counsel did not inform the court that it was his firm that filed the RJI, and did not address why the attorney who signed the RJI failed to mark off one of boxes under the commercial section of the RJI. It was only after reviewing the RJI in the County Clerk's Office that the Court discovered that it was plaintiff who filed the RJI, and did not mark the action as commercial.**

**Uniform Rule 202.70(e) provides that the parties who did not file the RJI may object to a non-commercial designation within 10 days of their receipt of a copy of the RJI. Uniform Rule 202.70(f)(2) allows a party who followed the requirements for assignment of the case to the Commercial Division, but whose case was sua sponte transferred by the assigned Commercial Division justice, to seek review of that order within 10 days of notice of the transfer. Nothing in the Uniform Rule allows the party who filed the RJI to request a transfer, even assuming that the original designation of the case was a mistake. Accordingly, the request is denied.**

Dated: April 29, 2008

ENTER: \_\_\_\_\_, A.J.

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION