

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

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

**IGOR KUPERSHTOK, ARNOLD BLINDER, SPRI
UKRAINE, LTD. and PHARMACEUTICAL TRADE
HOUSE, INC.,**

Plaintiffs,

- v -

INDEX NO. 602095/2007

**SOCIAL PSYCHIATRY RESEARCH, INC., SPRI
INTERNATIONAL, LLC, SPRI CLINICAL TRIALS
and MATTHEW LEHMAN,**

Defendants.

Administrative Order:

By letter dated October 23, 2007 and addressed to the Hon. Barbara Kapnick (I.A.S. Part 12), counsel for defendants Social Psychiatry Research, Inc. and SPRI International, LLC requests that this action presently pending before Justice Kapnick be transferred back to the Commercial Division. Counsel for plaintiffs joins in the request.

The Request For Judicial Intervention (RJI) was filed in this case by defense counsel on August 20, 2007, in connection with a now withdrawn motion to dismiss. Defendants designated the case as a commercial matter and it was assigned to Commercial Division Justice Richard B. Lowe, III. However, Justice Lowe issued an order on September 12, 2007 directing the case be re-assigned to a non-commercial part, and the case was re-assigned to Justice Kapnick on that date. Judge Lowe's order was entered in the County Clerk's office on September 13, 2007.

Uniform Rule 202.70(f)(2) provides that any party aggrieved by a transfer of a case to a non-commercial part may seek review by letter application to the Administrative Judge within 10 days of learning the case has been transferred. Defense counsel fails to allege when he learned of Justice Lowe's order, and I can only assume that he was, or should have been, aware of the transfer at least by September 21, 2007 when his motion was withdrawn. Thus, regardless of whether the application is on consent, it is well past the 10-day time period provided for in the Uniform Rules, a time period that is strictly construed.

Accordingly, defendants' request to transfer this action back to the Commercial

Division is denied as untimley.

Dated: October __, 2007

ENTER: _____, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION