

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

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

**DR. MICHAEL J. NEELY, ADAM A. BANKS
and MICHAEL J. NEELY, D.O. PLLC,**

Plaintiffs,

- v -

INDEX NO. 600194/2008

**SPINAL AID CENTERS OF AMERICA, INC.,
FRANK LIBERTI, and AXIS CAPITAL, INC.,**

Defendants.

Administrative Order:

By letter dated March 18, 2008, counsel for plaintiffs has filed an application for a transfer of this action from I.A.S. Part 59 (James, J.) to the Commercial Division. The Court has not received opposition to this request from any of the defendants.

On February 27, 2008, plaintiffs purchased a Request for Judicial Intervention (RJI) and marked the RJI "Other Commercial - Fraud." Plaintiffs also filed the requisite Statement in Support of Request for Assignment to the Commercial Division with the RJI. The RJI was stamped "approved for filing" by the Commercial Division Support Office.

However, on March 3, 2008, defendant Axis Capital, Inc. (Axis) purchased a second RJI in this action in connection with their motion to dismiss. On the second RJI, defendant Axis marked the action "Other Tort," a non-commercial designation. The action was assigned to Justice James.

The first RJI filed by plaintiffs, marking the action "Other Commercial - Fraud," is the operating RJI. The plaintiffs followed the proper procedure in having the case assigned to the Commercial Division and the acceptance of the second RJI by the County Clerk's Office was an error. Further, I have reviewed the complaint and the action does meet the standards for assignment to the Commercial Division pursuant to the Uniform Rule 202.70 (b) (1), as well as the monetary threshold.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. (Defendant Axis' Motion to Dismiss is returnable on April 1, 2008).

Dated: March 19, 2008

ENTER: _____

_____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION