

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

PRESENT: Hon. George J. Silver, Acting Administrative Judge  
Administrative Order

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THE BOARD OF MANAGERS OF THE PARK LANE  
CONDOMINIUM,

Plaintiff,

- v -

INDEX NO. 654727/2016

116-118 WEST 112<sup>TH</sup> STREET ASSOCIATES LLC,  
MANHATTAN NORTH MANAGEMENT CO., INC.,  
RODNEY M. PROPP, and JOSEPH A. TAHL,

Defendants.

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Administrative Order:

By letter dated September 21, 2017, plaintiff's counsel requests that this action, currently assigned to the Hon. Robert Reed (I.A.S. Part 43), be assigned to the Commercial Division pursuant to Commercial Division Rule 202.70. No response to the request has been received.

The request is denied. The application is untimely. Assignment to the Commercial Division must be accomplished within 90 days of service of the complaint (Commercial Division Rule 202.70 [d]), which occurred on February 6, 2017 in this case. Even if the parties' settlement negotiations constituted good cause to excuse the delay, the request must be denied for two additional reasons. First, Commercial Division Rule 202.70 (e) provides that if a case is assigned to a non-commercial part, because the filing party did not designate the case as commercial on the Request For Judicial Intervention (RJI) and file the required Commercial Division Addendum, "any other party" may apply by letter application to the Administrative Judge for a transfer of the action to the Commercial Division. It was plaintiff's counsel who filed the RJI in this action on September 8, 2017, but did not file the requisite Addendum. Second, this action concerns a residential condominium building, and "residential real estate disputes" are excluded from the Commercial Division (see Commercial Division Rule 202.70 [c] [3]).

For these reasons, plaintiff's request to transfer this action to the Commercial Division is denied.

Dated: September 29, 2017

ENTER: George J. Silver, A.J.

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION