

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

PRESENT: Hon. Peter H. Moulton  
Administrative Order

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ABL ADVISOR LLC; LOUIS FORSTER;  
and LANTERN ENDOWMENT PARTNERS, L.P.,

Plaintiffs,

- v -

INDEX NO. 651985/2015

IAN S. PECK; ART CAPITAL GROUP, LLC;  
PATRIOT CREDIT COMPANY, LLC; BLUEFIN  
CAPITAL PARTNERS, LLC; and JOHN DOES 1-10,

Defendants.

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Administrative Order:

By letter dated April 27, 2017, plaintiffs' counsel requests that this action be assigned to the Commercial Division pursuant to Commercial Division Rule 202.70 (e). By his letter dated April 28, 2017, defense counsel objects to the request as untimely.

This case was commenced on June 5, 2015, almost two years ago. The Request For Judicial Intervention (RJI) was filed by plaintiffs' counsel that same day. No Commercial Division Addendum was filed at that time, and the case was assigned to a general I.A.S. Part.

This application is untimely. Assignment to the Commercial Division must be made within 90 days of the service of the summons and complaint (see Uniform Rule 202.70 [d]). In addition, any party objecting to the assignment of a case to a non-commercial part must make a letter application to the Administrative Judge within 10 days after receipt of the RJI (see Commercial Division Rule 202.70 [e]). The rules are designed to ensure that appropriate cases are assigned to the Commercial Division at the inception of the case, not two years into the litigation. Even if the original complaint did not meet the \$500,000 monetary threshold for New York County (Commercial Division Rule 202.70 [a]), the amount in controversy exceeded \$1.1 million as early as July of 2015.

For these reasons, the request for assignment to the Commercial Division is denied.

Dated: May 10, 2017

ENTER: 

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION

HON. PETER H. MOULTON  
SUPREME COURT JUSTICE