

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

CAMILLA LOWTHER MANAGEMENT, LLC
and MARYAM MALAKPOUR,

Plaintiffs,

- v -

INDEX NO. 653137/2011

MAJESTIC MILLS,

Defendant.

Administrative Order:

By letter dated September 20, 2012, plaintiffs request that this action be re-assigned from I.A.S. Part 61 to the Commercial Division. Defendant objects on the grounds of timeliness by its counsel's letter dated September 21, 2012.

Defendant filed a Request for Judicial Intervention (RJI) on January 18, 2012 in connection with a motion to dismiss the complaint. Although the case was designated as a "Commercial - Contract" matter, and the required Commercial Division Addendum was filed, the case was apparently mistakenly assigned by the clerk's office to the Hon. Anil Singh on January 23rd. However, no party objected at that time, and Judge Singh has been presiding over the action since then, issuing an order on defendant's motion on or about April 2, 2012.

Uniform Rule 202.70 (e) places a 10-day time limit on these applications, measured from the receipt of a copy of the RJI or assignment to a non-commercial part, and the time limit is strictly construed. Plaintiffs' counsel is mistaken in his assertion that the case was originally assigned to the Hon. Bernard Fried, formerly a justice of the Commercial Division, and then re-assigned to Justice Singh upon Justice Fried's recent retirement. Judge Fried merely signed an ex parte order in December of 2011 extending the defendant's time to answer the complaint.

Plaintiffs' request to transfer this action into the Commercial Division is denied as untimely.

Dated: September 24, 2012

ENTER: Sherry Klein Heitler, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION