

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

**PRESENT: Hon. Deborah A. Kaplan, Administrative Judge**  
**Administrative Order**

---

**M. ALFONSO PAINTING CORP.,**  
**Plaintiff,**

**- v -**

**INDEX NO. 652883/2013**

**I LABOR, LLC, WBB CONSTRUCTION, INC.,**  
**SHAYA BRODCHANDEL and CHAIM TESSLER,**  
**Defendants.**

---

**Administrative Order:**

By letters dated September 25, 2018 and September 26, 2018, counsel for plaintiff M. Alfonso Painting Corp. requests assignment of this action to the Commercial Division pursuant to Commercial Division Rule 202.70 (e). By letter dated September 26, 2018, counsel for defendants opposes the request.

Commercial Division Rule 202.70 (d) (1) provides, in relevant part:

(d) Assignment to the Commercial Division

(1) Within 90 days following service of the complaint, any party may seek assignment of a case to the Commercial Division by filing a Request for Judicial Intervention (RJI) that attaches a completed Commercial Division RJI Addendum certifying that the case meets the jurisdictional requirements for Commercial Division assignment set forth in subdivisions (a), (b) and (c) of this section. Except as provided in subdivision (e) below, failure to file an RJI pursuant to this subdivision precludes a party from seeking assignment of the case to the Commercial Division.

In this case, the complaint was served sometime in January 2014, and the RJI was filed more than 4 years later, in September 2018. Based on plaintiff's failure to file the RJI within 90 days of service of the complaint, the case was assigned to a non-commercial part of this court (Hon. Joel M. Cohen).

Plaintiff's counsel acknowledges that the action was commenced, and issue was joined, in 2014. He submits that there was virtually no further activity thereafter until July 2018, when he was retained as counsel and that he thereafter promptly prepared and filed the RJI and Commercial Division Addendum.

Commercial Division Rule 202.70 (e) provides "... notwithstanding the time periods set forth in subdivisions (d) and (e) of this section, for good cause shown for the delay a party may seek the transfer of a case to the Commercial Division by letter application (with a copy to all parties) to the Administrative Judge.").

Plaintiff's counsel submits that he has shown good cause for the delay and that the case should therefore be transferred to the Commercial Division. Defendants' counsel opposes the request, pointing out inter alia, that defendants served discovery demands in 2014 which were never responded to.

Upon review, although plaintiff's counsel may be diligently proceeding herein, he nevertheless has not demonstrated good cause for plaintiff's extremely lengthy delay.

Accordingly, the application to transfer this case to the Commercial Division is denied as untimely.

Dated: October 29, 2018

ENTER: , A.J.

Check one: ☐ FINAL DISPOSITION

☒ NON-FINAL DISPOSITION

Hon. Deborah A. Kaplan  
Administrative Judge  
Supreme Court, New York County  
Civil Branch