

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

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

FIVE STAR ELECTRIC CORP.,

Plaintiff,

- v -

INDEX NO. 651499/2018

**86TH STREET CONSTRUCTORS JOINT
VENTURE,**

Defendant.

Administrative Order:

By letters July 18 and 19, 2018, defendant's counsel requests assignment of this action to the Commercial Division pursuant to Commercial Division Rule 202.70 (e). By letter dated July 18, 2018, plaintiff's counsel objects to the request on the grounds that it is untimely, without good cause, and would be prejudicial to plaintiff.

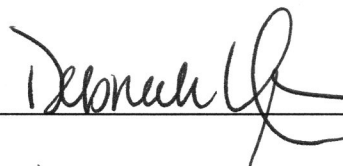
The Commercial Division Rules require that assignment to the Commercial Division occur within 90 days of service of the complaint by the filing of a Request for Judicial Intervention (RJI) and the required Commercial Division RJI addendum (see Commercial Division Rule 202.70 [d]). This action was commenced on March 28, 2017, and service of process occurred on April 2, 2018. Defendant's counsel filed the RJI on July 11, 2018 in connection with defendant's motion to dismiss the complaint. The RJI was not accompanied by a Commercial Division Addendum, and thus the case was assigned to a non-commercial part. Defendant's counsel now seeks, by letter request, assignment to the Commercial Division pursuant to Commercial Division Rule 202.70 (e). However, that rule provides that the right to appeal an RJI designation is limited to "any other party," meaning any other than the party who filed the RJI and did not seek assignment to the Commercial Division. The request is also untimely, since more than 90 days have passed since

service of the complaint, and good cause for the delay has not been demonstrated.

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

Dated: July 27, 2018

ENTER: _____



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

Check one: ☐ FINAL DISPOSITION

☒ NON-FINAL DISPOSITION