

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

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

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**RALPH LAUREN RETAIL, INC.,**

**Plaintiff,**

**- v -**

**INDEX NO. 650928/2018**

**99 UNIVERSITY CORPORATION,**

**Defendant.**

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**Administrative Order:**

By letter dated August 29, 2018, plaintiff's counsel requests assignment of this action to the Commercial Division pursuant to Commercial Division Rule 202.70 (e). By letter dated August 30, 2018, counsel for defendant 99 University Corporation opposes the request to the extent that a transfer to the Commercial Division would remove the matter from mandatory mediation in the ADR program.

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]). The Commercial Division Rules further provide that an objection to a case not being assigned to the Commercial Division be made within 10 days (see Commercial Division Rule 202.70 [d] and [e]),

Here, this action was commenced on February 27, 2018 by the filing of a summons and complaint against defendant, and service of process was accomplished by February 28, 2018. More than five months later, on August 17, 2018, the RJI and Commercial Division addendum were filed. The Commercial Division addendum was rejected by the clerk's office on August 17, 2018 as untimely. Thereafter, the case was assigned to Justice Tanya Kennedy and the action was enrolled in mandatory mediation.

On August 29, 2018, 12 days after the Commercial Division addendum was rejected, Plaintiff submitted a letter to the Administrative Judge requesting assignment of the case to the Commercial Division.

Here, both the filing of the Commercial Division addendum (over 5 months) and plaintiff's letter request to the Administrative Judge (12 days) are untimely.

The excuse offered by plaintiff's counsel for the delay in filing is that the parties were engaged in settlement discussions. Even if this otherwise constituted a valid excuse, plaintiff's counsel fails to explain why the filing of the letter application to the Administrative Judge exceeded the mandated 10 days. Under the circumstances, the court concludes that good cause for the delay has not been shown.

Plaintiff's request for a transfer to the Commercial Division is therefore denied.

Dated: October 2, 2018

ENTER:

 A.J.

Check one: ☐ FINAL DISPOSITION

☒ NON-FINAL DISPOSITION