

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

PRESENT: HON. DEBORAH A. KAPLAN

*Administrative Judge*

NYC 6400 HOLDINGS LLC

INDEX NO. 650298/2019

Plaintiff,

- v -

15 WEST 64TH LLC,

Defendant.

**ADMINISTRATIVE  
ORDER**

By letter dated March 20, 2019, Phillip Rakhunov, Esq., counsel for defendant 15 West 64th LLC, in this action, and the plaintiff in a related action, 15 West 64th LLC v. NYC 6400 Holdings LLC (Index No. 850012/2019) (the "Related Action") requests the transfer of the instant action and the Related Action to the Commercial Division pursuant to Uniform Rule 202.70. Both cases are presently pending before the Hon. Melissa Crane. Mr. Rakhunov represents that counsel for plaintiff in this action (and defendant in the Related Action) agrees to the requested transfer.

The above-captioned action was commenced on January 16, 2019, and defendants were served on January 30, 2019. The RJI in this action, filed by plaintiff's counsel on February 27, 2019, listed the Related Action as such. Plaintiff did not file a Commercial Division addendum, and accordingly this action was assigned to Justice Crane, who presides over a general part. The Related Action was also assigned to Justice Crane because the RJI filed therein likewise listed this action as a related to it.

Mr. Rakhunov submits that both actions are eligible for assignment to the Commercial Division. He states that:

[T]he two actions together raise claims related to a contract for the purchase of an apartment building in Manhattan, a loan agreement, and a mortgage. The dispute concerns the status of a \$1.5 million down payment, the terms of a promissory note in that amount, and a related mortgage. In addition to monetary damages, the first-filed

action also seeks declaratory relief related to the various agreements. The second-filed action seeks commercial foreclosure pursuant to the disputed mortgage.


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 a 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, and that "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." (see Commercial Division Rule 202.70 [d] and [e]). (emphasis added).

Here, although the RJI was filed on February 27, 2019, the letter application to the Administrative Judge requesting transfer of the action to the Commercial Division was not filed within the required 10-day period. Rather, the letter application was filed approximately 3 weeks after this action was assigned to Justice Crane. Counsel has not offered or shown any good cause for this delay.

Accordingly, the request for assignment to the Commercial Division is denied as untimely (see Commercial Division Rule 202.70 [e]). To the extent that counsel is requesting this relief with respect to the Related Action, it is likewise denied.

DATE:

Apr 18, 2019

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