

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

PRESENT: HON. DEBORAH A. KAPLAN

Administrative Judge

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PAUL RYAN, JAMES FRIEDMAN

INDEX NO. 150272/2019

Petitioners,

- v -

FRENER & REIFER AMERICA, INC.,

Respondent.

**ADMINISTRATIVE
ORDER**

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By letter dated January 22, 2019, Christopher Tumulty, Esq. counsel for respondent, Frener & Reifer America, Inc., requests that this proceeding be assigned to the Commercial Division pursuant to Uniform Rule 202.70. No response has been received from petitioner.

Petitioners commenced this proceeding on January 10, 2019 and filed the RJI without a Commercial Division addendum at that time. Since an addendum was not filed, the proceeding was assigned to a General Part (Hon. Lynn Kotler).

The claims set forth by petitioners, Ryan and Friedman, involve purported loan agreements with Paul Ryan Associates, Inc. and related secured transactions under the Uniform Commercial Code ("UCC"), in the collective amount of approximately \$10,422,000.00. Petitioners claim that these interests were validly created and afford them priority over a judgment held by Respondent against Ryan Associates in the amount of \$582,690.78. Respondent's counsel submits that respondent disputes petitioners' UCC security interests and will claim that the judgment it holds is a priority lien over any interest held by petitioners.

While "proceedings to enforce a judgment regardless of the nature of the underlying case" are not heard in the Commercial Division (Commercial Division Rule 202.70 [c] [4]), the gravamen of this proceeding concerns complicated priority of interest issues as well as issues under Uniform Commercial Code. "Transactions governed by the Uniform Commercial Code" (subject to certain exceptions not applicable here) are within the purview of the Commercial Division (Commercial Division Rule 202.70 [b] [2]).

Therefore, I conclude that this proceeding falls within the standards for assignment of cases to the Commercial Division (see, Uniform Rule 202.70[a]) and the request for assignment to the Commercial Division is granted. The General Clerk's office is directed to transfer this proceeding from IAS Part 8 (Kotler, J) and randomly assign it to a Justice of the Commercial Division.

DATE: February 14, 2019



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