

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

PRESENT: HON. DEBORAH A. KAPLAN

Administrative Judge

CHelsea ROYALE CONDOMINIUM, CHelsea ROYALE
CONDOMINIUM BOARD OF MANAGERS

INDEX NO. 653689/2018

Plaintiff,

- v -

CHelsea 7 JV, LLC, RICHARD PILSON,

Defendant.

**ADMINISTRATIVE
ORDER**

By letter, dated April 2, 2019, Thomas Ling, Esq., counsel for plaintiff, requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70. No response has been received from counsel for defendants.

This action was commenced by summons with notice on July 24, 2018, and a demand for the complaint followed. The complaint, verified August 30, 2018, was then served. In September and October 2018, the parties twice stipulated to extend defendants' time to answer. Defendants' answer, verified November 15, 2018, contains a counterclaim for \$6 million. At least four stipulations were thereafter executed continuously extending plaintiffs' time to answer, move or respond to defendants' affirmative defenses and counterclaim.

On April 1, 2019, plaintiff's counsel filed an RJl and a Commercial Division addendum. Since the RJl was filed more than 90 days after service of the complaint, the clerk did not assign this to a Commercial Division part, but instead assigned it to a general part (Hon. Arthur Engoron). This letter application to the Administrative Judge was filed the following day.

In his letter, Mr. Ling describes this action as follows:

This dispute arises out of a licensing agreement through which the defendant developer obtained access to plaintiff condominium association's property for the development of the adjoining lot. In exchange for access,

the defendant agreed to pay licensing fees, attorney's fees, and engineering fees.

Mr. Ling further explains that he is the second attorney to represent plaintiff and that he was retained on February 11, 2019. He goes on to say that the Commercial Division addendum was timely because it was filed within 90 days of his retention. He states:

Plaintiff retained undersigned counsel on February 11, 2019 and an RJl was filed with 90 days of the same. Accordingly, for good cause shown, Plaintiff respectfully requests that this case be transferred to the Commercial Division.

This is not correct. The 90 days runs from service of the complaint, not an attorney's retention, or a second attorney's retention. In any event, plaintiff's counsel waited nearly 2 months after he was retained to prepare this letter application. These facts fail to demonstrate good cause.

Accordingly, the request for assignment to the Commercial Division is denied.

DATE:

5/3/19



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