

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

PRESENT: HON. DEBORAH A. KAPLAN

Administrative Judge

JOHN EVRARD,

INDEX NO. 158549/2018

Plaintiff,

- v -

ALEXANDRE DENIS, AD HOLDING SARL, JEAN-LOUIS
COSTES, JACOB SEBAG ASSOCIATES P.C., CODEEV
(USA) HOLDING INC.

Defendant.

**ADMINISTRATIVE
ORDER**

By letter dated January 28, 2019, Eric D. Dowell, Esq. of the law firm Pryor Cashman LLP, counsel for defendants requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70. Mr. Dowell states that counsel for plaintiff consents to this relief.

In this action, plaintiff asserts various business fraud and tort claims against defendants concerning a venture to develop and operate a restaurant at Saks Fifth Avenue. Relief in excess of \$500,000 is requested.

The action was commenced on September 14, 2018 and defendants were served on or about September 18, 2018 by service on the Secretary of State. On January 18, 2019, defendant filed a motion to dismiss the complaint together with an RJl and a Commercial Division addendum. Since the RJl and Commercial Division addendum were filed more than 90 days after service of the Complaint, the case was assigned to a general part.

Although Section 202.70 (d) of the Rules of the Commercial Division of the Supreme Court require filing of the RJl and Commercial Division addendum within 90 days of service of the complaint, subsection (e) further provides 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.

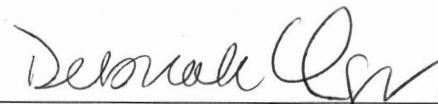
Here, counsel writes:

Here, Defendants submit that "good cause" for the "delay" exists because (1) there are multiple legal disputes between the parties pending in various countries, one of which resulted in a form of mediation whereby (2) the principals intended to, and in fact did, attempt to resolve their global dispute, which was the basis for filing two successive Stipulations in this Action extending the Defendants' time to answer or otherwise move, first to December 19, 2018 and next to January 18, 2019, (see Dkt Nos. 4 and 5), and effectively stayed this Action for a limited time period. . . . While the parties did not successfully reach a resolution, they attempted to do so in good faith. . . .

The court is satisfied that the causes of action alleged in the complaint arise out of business dealings, and that the action falls within the standards for assignment of cases to the Commercial Division (see Uniform Rule 202.70 [a]). Although the Request for Judicial Intervention and required addendum were not filed within 90 days of service of the complaint (see Uniform Rule 202.70 [d]), good cause to excuse the delay has been demonstrated.

Accordingly, the request for assignment to the Commercial Division is granted. The General Clerk's office is directed to randomly transfer this action from IAS Part 59 (James, J.) to a Justice of the Commercial Division.

DATE: Feb 5, 2019



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