

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

PRESENT: HON. DEBORAH A. KAPLAN

*Administrative Judge*

LIBBIE MUGRABI,

INDEX NO. 161334/2018

Plaintiff,

- v -

DAVID MUGRABI, 1282 STREET LLC, THE DAVID  
MUGRABI FAMILY TRUST, ALBERTO MUGRABI

Defendant.

**ADMINISTRATIVE  
ORDER**

-----X

This action was commenced on December 4, 2018. On February 13, 2019, Marc E. Kasowitz, Esq., counsel for defendant filed an RJI and Commercial Division addendum. Gerard A. Riso, Esq. counsel for plaintiff, filed a letter, dated February 14, 2019, opposing transfer of the case to the Commercial Division. Mr. Riso stated, in pertinent part:

The RJI and Addendum omits that there is a related matrimonial case to this action, entitled *David Mugarbi v. Libbie Mugarbi*, Supreme Court, NY County, Index No. 306717/2018. This action should therefore be assigned to the Justice of that case, Honorable Douglas E. Hoffman. . . . Moreover, this action concerns a dispute over residential real estate, which is excluded under Com. Div. Rule 202.70(c)(3). This action alleges a fraudulent conveyance conspiracy to defraud the Plaintiff-wife (the defendant in the matrimonial case), and does not involve a commercial dispute within the parameters of Com. Div. Rule 202.70(b). We respectfully submit that this action should not be assigned to the Commercial Division, and should be assigned to Justice Hoffman, who is hearing the related matrimonial proceeding.

A series of letters followed, including one from defendant's counsel, Mr. Kasowitz, dated February 19, 2019, in further support of defendants' position that the action belongs in the Commercial Division, and two letters from plaintiff's counsel, Mr. Riso, dated February 19, 2019 and February 25, 2019, reiterating plaintiff's position that the action is excluded from the Commercial Division under Uniform Rule

202.70 (c) and that it is related to a matrimonial action currently pending in this court and should be transferred to that part (Hon. Hoffman).

Upon review, the court rejects defendants' contention that this action belongs in the Commercial Division. The underlying dispute between plaintiff and defendant, former husband and wife, concerns residential property. Commercial Division Rule 202.70 (c)(3) provides that residential real estate disputes are excluded from the Commercial Division. This action therefore does not qualify for assignment to the Commercial Division.

Furthermore, this action is related to the matrimonial action and should have been listed on the RJI. The court's assignment procedures for related cases provides in relevant part:

. . . [I]f the new case is designated as related, it will automatically be assigned to the Justice who was assigned the earlier case provided that that case has not already been disposed of . . .

(see, RJIs and Assignments, <http://www.nycourts.gov/courts/1jd/supctmanh/RJIs-Assignments.shtml>).

Complex commercial real estate matters arise often in divorce actions and are competently handled by matrimonial judges. Accordingly, the request for assignment to the Commercial Division is denied. The General Clerk's office is directed to transfer this action to the Hon. Douglas E. Hoffman (IAS Part 44).

DATE:

March 14, 2019



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