

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

PRESENT: HON. DEBORAH A. KAPLAN

Administrative Judge

MUSE PAINTBAR LLC, STANLEY FINCH,

INDEX NO. 651476/2019

Plaintiff,

- v -

INFLUX CAPITAL GROUP LLC, CAPITAL ADVANCE
SERVICES LLC, TSVI DAVIS, JONATHAN BRAUN,
YISROEL WEINSTEIN, SQUARE, INC.

Defendant.

**ADMINISTRATIVE
ORDER**

-----X

By letter, dated March 19, 2019, Nathan Cohen, Esq., counsel for defendants Influx Capital Group LLC, Tsvi Davis and Yisroel Weinstein, requests that this action be transferred from Judge Arthur Engoron and randomly re-assigned to a Justice of the Commercial Division pursuant to Uniform Rule 202.70.

By letter, dated March 22, 2019, Shaina Weissman, Esq., counsel for plaintiffs opposes the request claiming this action is related to *James Davis II et al v Richmond Capital Group, LLC et al*, Index No. 656346/2018 -- an action pending before Judge Engoron -- and was properly assigned to him.

By letter dated March 26, 2019, Jeffrey Fleischmann, Esq., counsel for defendant Jonathan Braun, also claims that this action is not related to the action before Judge Engoron. He asks that this action be re-assigned to another Judge of this Court or to a Justice of the Commercial Division.

According to the court rules regarding RJI's and the assignment of cases:

D. RELATED CASES

In an effort to conserve judicial resources and avoid inconsistent rulings, the filing counsel must check off on the RJI whether a related case exists. If 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. **If the earlier case has been disposed of, the Clerk will assign the case at random. Although the conclusion of the previous case will ordinarily preclude the assignment of the later case on the basis of relatedness, the filing attorney is free to argue to the Justice to whom the case is assigned that the matter ought**

to be assigned to the Justice who had handled the earlier case due to exceptional considerations of judicial efficiency and the like. If a party believes that such a related-case designation and resulting assignment were made in error, or that the filing party incorrectly failed to designate the case as related, the issue should be raised before the assigned Justice, who may send the matter to the back office for a random reassignment or a transfer if the complaint is justified. If further review is required, it occurs before the Administrative Judge. . .

(www.nycourts.gov/courts/1jd/supctmanh/RJIs-Assignments.shtml); **emphasis added**).

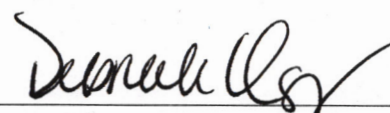
Here, plaintiff filed the RJI and noted thereon that this action is related to *James Davis II et al v Richmond Capital Group, LLC et al*, Index No. 656346/2018, presently pending before Judge Engoron. The clerk therefore assigned the case to him.

Although defendants claim that the two cases are unrelated, plaintiffs list in detail the similarities and substantial overlap between the cases to support their position that the cases are in fact related actions and therefore were properly assigned to Judge Engoron. Plaintiffs' counsel also states that defendants' counsel previously made an oral application to the Judge to transfer the case to the Commercial Division, and that Judge Engoron denied the request.

Upon review of the relevant submissions, the defendants have failed to sufficiently show that the two cases are unrelated and that assignment of this action to Judge Engoron was improper. In light of this, as well as Judge Engoron's denial of defendants' prior transfer request, this court will not disturb plaintiffs' choice to list the *James Davis* action as a related action on the RJI. A determination of whether the action falls within the standards for assignment to the Commercial Division (see, Uniform Rule 202.70[a]) is therefore unnecessary.

Accordingly, the letter application is denied.

DATE: 5/6/19



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