

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

PRESENT: HON. DEBORAH A. KAPLAN

Administrative Judge

P & HR SOLUTIONS, LLC, DEBRA FERGERSON,

INDEX NO. 650238/2019

Plaintiff,

- v -

RAM CAPITAL FUNDING, LLC, JONATHAN BRAUN, TSVI
REICH, ROBERT GIARDINA, MICHELLE GREGG, JOE
BRAZIL

**ADMINISTRATIVE
ORDER**

Defendant.

By letter dated March 7, 2019, Abraham Beinhorn, Esq., counsel for defendants Ram Capital Funding LLC and Tzvi Reich, requests the transfer of this action to the Commercial Division pursuant to Uniform Rule 202.70. As explained below, the application is denied.

This action was commenced on January 14, 2019 by filing a Summons with Notice, and plaintiff also filed an RJl on that date. On January 17, 2019, plaintiff moved by order to show cause for various relief, including a temporary restraining order. In conjunction therewith, plaintiff filed a Commercial Division addendum. Although it is not clear, it appears that the Commercial Division addendum was never considered because the case had been assigned to a general part before the Commercial Division addendum was filed.

On January 18, 2019, Justice Engoron issued a decision and order on the motion, and it was served on the parties, with notice of entry, the same day.

On January 23, 2019, defendants Ram Capital Funding LLC and Tzvi Reich moved, by Order to Show cause, to vacate the January 18, 2019 order and to stay enforcement of said order. On January 24, 2019 defendant Jonathan Braun also moved to vacate the January 18, 2019 order.

Thereafter, on February 4, 2019, Justice Engoron issued a decision and order granting in part and denying in part defendants' motions. Eight days later, on February 12, 2019, Ram Capital Funding, Reich, and Braun filed demands for a complaint.


While the pace of this action has been quick, it is worth noting that defendants continuously participated in this action before Justice Engoron, without objecting to the assignment and/or requesting transfer of this case to the Commercial Division, for nearly two months.

The Commercial Division Rules provide that an objection to a case not being assigned to the Commercial Division be made within 10 days after such assignment, and 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." (see Commercial Division Rule 202.70 [d] and [e]). (emphasis added).

Here, although the RJl was filed on January 14, 2019, the letter application to the Administrative Judge requesting transfer of the action to the Commercial Division was not filed within the required 10-day period. Rather, the letter application was filed approximately seven weeks after this action was assigned to Justice Engoron, at a point in time when Justice Engoron had already ruled on three motions. Under these circumstances, I conclude that counsel has not provided a good explanation for this delay.

Accordingly, the application to assign this case to the Commercial Division is denied as untimely (see Commercial Division Rule 202.70 [e]).

DATE: April 8, 2019


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