

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

O. ALDON JAMES, JR., JOHN JAMES and STEVEN
U. LEITNER,

Plaintiffs,

- v -

INDEX NO. 109945/11

THE NATIONAL ARTS CLUB; THE BOARD OF
GOVERNORS OF THE NATIONAL ARTS CLUB;
DIANNE BERNHARD, as President of the National
Arts Club; JOHN MORISANO, as First Vice President
of the National Arts Club; TARA CORTES; STEPHEN
HEDBERG, MILBRY POLK, ALEX ROSENBERG
and ROSS ZNAVOR, as Governors of the
National Arts Club and as hearing officers,

Defendants.

Administrative Order:

By letter dated November 2, 2011, counsel for the defendants (collectively, National Arts Club) requests that this action, together with O. Aldon James, Jr., on behalf of the National Arts Club v Dianne Bernhard, et al., Index No. 150450/11 (Action No. 2), be assigned to the Commercial Division. Counsel for the plaintiffs in both actions opposes on several grounds.

The application is denied for three reasons. First, these substantially related actions concern the affairs of the National Arts Club, which is a not-for-profit corporation, and not a business corporation. See National League For Nursing, Inc. v National League for Nursing Accrediting Commission, Inc., Index No. 651744/11 (Admin. Order dated August 20, 2011); American Maritime Officers v Officers Defense Service, Index No. 150069/09 (Administrative Order dated August 4, 2009).

Second, the application was not filed within 10 days of defendants' receipt of the Request For Judicial Intervention (RJI) in this action or notification of assignment to a non-commercial part. This action was filed on August 30, 2011, and the matter assigned to the Hon. Carol Edmead (I.A.S. Part 35) the following day.

Third, even if the application were timely, Judge Edmead has already invested

much time and effort into resolving this dispute, having heard no less than three lengthy oral arguments in this action -- on August 31st in connection with plaintiffs' application for a TRO, on September 20th, on the motion for a preliminary injunction, and on October 26th. For reasons of judicial economy, this action will not be reassigned to a new judge at this juncture.

For these reasons, defendants' request for assignment of this action and Action No. 2 (Index No. 150450/11) to the Commercial Division is denied. Since the RJJ in Action No. 2 properly lists this action as a related action, Action No. 2 should be assigned to Judge Edmead in due course.

Dated: November 4, 2011

ENTER: , A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION