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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

HSBC BANK USA, NATIONAL ASSOCIATION,

Plaintiff,

- v -

INDEX NO. 650466/2009

WILLIAM CHEN,

Defendant.

Administrative Order:

By letter dated April 29, 2010, counsel for defendant objects to the assignment of this action to the Commercial Division, arguing that the monetary threshold for the Commercial Division has not been met. However, the decision to transfer a case from the Commercial Division belongs, in the first instance, to the assigned Commercial Division justice. See Uniform Rule 202.70 (f).

Further, it was defendant's counsel who filed the Request for Judicial Intervention (RJI) on September 25, 2009, marking the case "Other Commercial," and the Uniform Rules do not provide for a second chance to the party that filed the RJI to correct their error. Rather, Rule 202.70(e) is clear that the right to appeal an RJI designation is limited to "any other party." Indeed, defendant's counsel expressly consented to the action being handled by JHO Gammerman in the Commercial Division by written stipulation, and JHO Gammerman has already issued a decision on a substantive motion filed by the defendant to dismiss the action. Thus, defendant's request for a transfer out of the Commercial Division, even if properly before me as Administrative Judge, would be denied on those grounds.

Accordingly, the request of a transfer of this proceeding out of the Commercial Division is denied.

Dated: May 4, 2010 ENTER: Sherry Klein Heitler, A.J.

HON. SHERRY KLEIN HEITLER

Check one: ❑ FINAL DISPOSITION ❑ NON-FINAL DISPOSITION