

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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ELENA G. DE MADARIAGA,

Plaintiff,

- v -

INDEX NO.: 651262/11

UNION BANCAIRE PRIVEÉ and UNION  
BANCAIRE PRIVEÉ ASSET MANAGEMENT,

Defendants.

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Administrative Order:

By letter dated July 8, 2011, counsel for plaintiff requests that this action, now pending before I.A.S. Part 12 (Feinman, J.), be transferred to the Commercial Division pursuant to Uniform Rule 202.70 (e).

The request is denied as untimely. Uniform Rule 202.70 (e) provides that an application to transfer an action into the Commercial Division must be made by letter application to the Administrative Judge within 10 days of the party's receipt of a copy of the Request for Judicial Intervention (RJI). The 10-day time limit imposed by Uniform Rule 202.70 (e) is strictly construed. Here, the RJI was e-filed on June 24, 2011 and plaintiff received an electronic copy on that date. The initial application mistakenly sent to Chief Administrative Judge Ann Pfau on July 6, 2011 was untimely as well.

Notwithstanding the untimeliness of the application, it does not appear that this action meets the \$150,000 monetary threshold for assignment to the Commercial Division in New York County. Indeed, the complaint is devoid of any monetary demand. Ms. de Magariaga's January 5, 2011 letter speaks only in terms of total compensation for 2010 in the \$1 million to \$1.5 million range. However, in this action she is only suing for a discretionary bonus for 2010 and damages stemming from the alleged manner in which her employment was terminated.

Accordingly, plaintiff's request to transfer this action into the Commercial Division is denied.

Dated: July 18, 2011

ENTER:  \_\_\_\_\_, A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION