

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

PRESENT: HON. JACQUELINE W. SILBERMANN
Administrative Judge Justice

~~PART~~ _____

Victor Chera

INDEX NO. 603188/2005

MOTION DATE _____

MOTION SEQ. NO. _____

MOTION CAL. NO. _____

Chera Realty + Dev. Co., et al.

Administrative Order

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: Yes No

~~Upon the foregoing papers, it is ordered that this motion~~

Counsel for plaintiff in this matter, who is also petitioner in a related, subsequently-filed proceeding seeking a stay of arbitration, requests a transfer of this case and the proceeding to the Commercial Division. Counsel states that when this action was commenced, which occurred on September 12, 2005, he designated it as a commercial case on the Request for Judicial Intervention, but that the clerk transferred it to a General Assignment Part. The court's computer shows that the matter was assigned in the first instance as a non-commercial case, not assigned as a commercial case and later transferred by a Division Justice. Thus, Paragraph G of the *Guidelines for Assignment of Cases to the Commercial Division* applies. That Paragraph provides that a party may apply to the assigned Justice to have a case assigned to a General Part transferred into the Commercial Division, subject to the approval of the Administrative Judge. It does not appear that a request was made to the assigned Justice, Hon. Richard Braun, prior to the presentation of this request to me. I could refer this matter to Justice Braun, but will not do so in the interests of expedition since it has been presented fully to me, and it would have to come before me again in any event if Justice Braun acceded to the request and I would not approve the transfer. Although counsel for plaintiff filed the order to show cause that

Dated: _____ J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

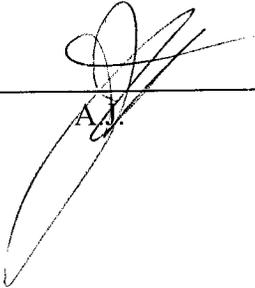
Check if appropriate: DO NOT POST REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

initiated this matter in this court and was, it appears, before the court on September 13, 2005, counsel, who knew that the matter had, in his view, been incorrectly assigned as a General case, did not take action until almost two months later, on November 10, 2005. If a case is, in the view of counsel filing an RJI, incorrectly assigned in the clerk's office, that problem should be raised promptly. See Paragraphs F and G. The request is denied.

Dated:

12/5/05


A.J.