

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

**PRESENT: Hon. Jacqueline Silbermann
Administrative Order**

WHITE ACRES EQUITIES, LLC,

Plaintiff,

- v -

INDEX NO. 602996/07

**THE CASA COLLECTION, INC. and JANINE
TRAVIESO,**

Defendants.

Administrative Order:

By letter dated January 2, 2008, counsel for plaintiff, White Acres Equities, LLC, requests that this action be transferred to the Commercial Division pursuant to Uniform Rule 202.70.

Defendants' counsel filed a Request for Judicial Intervention (RJI) on December 20, 2007 in connection with a motion to dismiss. Although she designated the case as "Commercial - Contract," the case was assigned on December 21st to the Hon. Carol Edmead, a non-commercial judge, presumably for failing to comply with the filing requirements of Uniform Rule 202.70(d)(2). In response, plaintiff served and filed a cross motion. Both motions were returnable and fully submitted on December 27, 2007 in the Initial Motion Part.

Uniform Rule 202.70(f)(2) places a 10-day time limit on these applications, measured from the receipt of the designation of the case to a non-commercial part. Plaintiff's counsel contends that he was not aware that the case had been assigned to a non-commercial judge until December 27th, when the motion and cross motion were submitted. Thus, although the application is timely, it is denied on the ground that Justice Edmead issued an order on January 2, 2008 resolving the motion and cross motion, staying the action and directing the parties to arbitration.

Accordingly, for these reasons, the request to transfer this action into the Commercial Division is denied without prejudice to renewal in the event the stay is subsequently lifted in whole or in part.

Dated: January 17, 2008

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION