

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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

Horns Inc. and Francine Horn,

Plaintiffs,

- v -

INDEX NO. 113883/05

Geller Marzano & Company, CPA's, P.C. and
Dean Hernan,

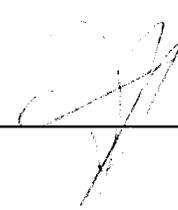
Defendants.

Administrative Order:

By letter dated June 9, 2006, defendants Geller Marzano & Company CPA's, P.C. and Dean Hernan have applied for a transfer of this action from Part 36 (Ling-Cohan) to the Commercial Division pursuant to Uniform Rule 202.70. By letter of the same date, plaintiffs oppose the request on the ground that the application is untimely.

Uniform Rule 202.70(e) places a 10-day time limit on these applications, measured from the receipt of the Request For Judicial Intervention (RJI). The RJI in this case was generated by plaintiffs' counsel in connection with the filing of a motion to dismiss affirmative defenses. The RJI was served by first class mail on defendants' counsel on March 9, 2006, filed with the court on March 17, 2006, and the case assigned to a non-commercial part on March 20, 2006 in accordance with the RJI's designation of this case as a malpractice action. Accordingly, the application is denied as untimely.

Dated: June 11, 2006

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION