

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

PRESENT: Hon. Joan B. Carey  
Administrative Order

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320 WEST 13th STREET, LLC,

Plaintiff,

- v -

INDEX NO. 603730/07

WOLF SHEVACK, INC., et al.,

Defendants.

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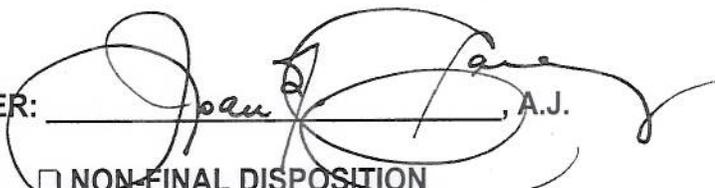
Administrative Order:

By letter dated April 14, 2009, counsel for the plaintiff requests that this action be re-assigned to the Commercial Division pursuant to Uniform Rule 202.70.

This action was originally assigned to the Commercial Division upon the filing of the Judicial Intervention on April 21, 2008, and assigned to the Hon. Richard Lowe III. However, by order dated June 9, 2008, Judge Lowe directed that the action be re-assigned to Justice Louis B. York due to his handling of a related case, *Wolf Shevack, Inc., et al. v. Sage Realty Corp., et al.*, Index No. 600280/02. However, for unknown reasons, the Clerk's office did not re-assign the action to Justice York, but marked the action for random re-assignment to a non-commercial judge, and the Hon. Marilyn Shafer (I.A.S. Part 8) got the case on September 8, 2008. By decision order dated December 16, 2008, Justice Shafer denied a motion to disqualify defendants' counsel and referred service of process issues to a Special Referee to hear and report.

Uniform Rule 202.70(f)(2) places a 10-day time limit on appeals of an order by a Commercial Division judge to transfer a case out of the Commercial Division, and the deadline is strictly construed to prevent judge-shopping. While plaintiff's counsel contends that the re-assignment of the case from Judge Lowe was "without notice to or request by counsel for the parties," Justice Lowe's order was filed with the County Clerk on June 11, 2008, and clearly all parties were aware of Judge's Shafer's assignment at some point last year, prior to her partial resolutions of motion sequence 001 and 002. Therefore, plaintiff's application for a re-assignment back to the Commercial Division must be denied as untimely.

Dated: April 17 2009

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

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION

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