

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

PRESENT: Hon. Joan B. Carey  
Administrative Order

BANK OF AMERICA, N.A.,

Plaintiff,

- v -

INDEX NO. 602717/2009

MARK A. ZIROGIANNIS, MARC A. ZIROGIANNIS, ESQ.,  
MARC A. ZIROGIANNIS, ESQ., P.C., STERLING  
NATIONAL BANK, WELLS FARGO BANK, N.A.  
and JANE AND JOHN DOES 1-50,

Defendants.

Administrative Order:

By letter dated December 4, 2009, counsel for plaintiff Bank of America, N.A., together with counsel for Sterling National Bank (Sterling) and SunTrust Mortgage, Inc. (SunTrust), appearing as Jane Doe, requests a transfer of this action from I.A.S. Part 23 (Braun, J.) to the Commercial Division pursuant to Uniform Rule 202.70.

On October 30, 2009, Sterling filed a Request for Judicial Intervention (RJI) in connection with a request for a preliminary conference. Although the case was designated "Other Commercial - Interpleader," the action was not assigned to the Commercial Division either due to clerical error or a failure on the part of Sterling's counsel to comply with Uniform Rule 202.70(d)(2). The action was assigned to the Hon. Richard Braun, I.A.S. Part 23, on November 4, 2009. On November 2, 2009, Sterling also filed an RJI in connection with an interpleader motion initially returnable on November 17, 2009. That motion was finally submitted to Part 23 on November 24, 2009.

Uniform Rule 202.70(e) places a 10-day time limit on these applications, measured from receipt of the designation of the case to a non-commercial part. See Uniform Rule 202.70(f)(2). Counsel should have been aware of the assignment of the action to Justice Braun at least by November 17th, the date the motion was initially adjourned in Room 130. The 10-day time limit is strictly construed.

Accordingly, the request is denied as untimely.

Dated: December 4, 2009

ENTER: Joan B. Carey, A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION