

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

PRESENT: Hon. Paul Feinman (Acting Administrative Judge)
Administrative Order

MARC KURMAN,

Plaintiff,

- v -

INDEX NO. 602086/09

ROBERT SCHNAPP,

Defendant.

Administrative Order:

By letters dated August 27 and September 1, 2009, counsel for the plaintiff requests a transfer of this action from I.A.S. Part 7 (Stallman, J.) to the Commercial Division pursuant to the Rules of the Commercial Division, Uniform Rule 202.70. By letter dated September 1, 2009, defendant's counsel opposes the application on the ground that it is untimely and does not meet the standards for assignment to the Commercial Division.

Pursuant to the Rules of the Commercial Division, the time for plaintiff to request a transfer to the Commercial Division was within ten (10) days of his counsel's receipt of a Request For Judicial Intervention (RJI) wherein the filing party has not designated the case as a commercial matter. See Uniform Rule 202.70 (e). The RJI in this action was filed on July 31, 2009 by defendant's counsel in connection with a motion to dismiss the complaint. Since the RJI was served by mail on July 27, 2009, the last day to apply for a transfer was well before plaintiff's August 27th letter application. Counsel for the plaintiff states that the case was only assigned to a non-commercial part a "few days ago." Even if this was a relevant date under the Commercial Division Rules, which it is not, according to the Court's Civil Case Information System (CCIS), the judicial assignment occurred on August 13, 2009, and thus plaintiff's application is still past the 10-day time period.

Accordingly, plaintiff's request to transfer this action into the Commercial Division is denied as untimely.

Dated: September 2, 2009

ENTER: , A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION