

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

PRESENT: Hon. Edward H. Lehner (Acting Administrative Judge)  
Administrative Order

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In re: Petition of Arnold Schroeder for an Order  
Appointing Directors to the Wendy & Emery Reves  
Foundation, Inc., a Not-For-Profit Corporation  
Organized Under the Laws of the State of New York.

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INDEX NO. 110733/09

Administrative Order:

By letter dated October 5, 2009, Akin Gump Strauss Hauer & Feld, LLP, as purported counsel for The Wendy & Emery Reves Foundation, Inc. (WERF) and its alleged members and directors, George V. Charlton, Irvin L. Levy, Ruth Sharp Altshuler, Dr. Kern Wildenthal and Edward Copley, Esq. (collectively, movants), requests that this special proceeding be transferred from I.A.S. Part 35 (Edmead, J.) to the Commercial Division. By letter dated October 6, 2009, petitioner Arnold Schroeder and two other newly-appointed interim directors of WERF oppose any reassignment.

This is a special proceeding, commenced by the son of the late Wendy Reves to appoint interim directors of WERF on the ground that WERF had no living members or directors and that bona fide efforts to identify anyone with current information about the operations of WERF had been unsuccessful. By ex parte order dated August 6, 2009, petitioner Arnold Schroeder, Norman Shaifer and Robert E. Curry, Jr. were appointed as interim directors. On or about September 30, 2009, movants filed an order to show cause to vacate this order, contending that they constitute the duly-elected board of WERF and have been actively managing WERF's affairs.

Movants' counsel contends that this proceeding falls within the standards set out in Uniform Rule 202.70(b) (7) for assignment to the Commercial Division, because it concerns the internal affairs of a business organization. However, WERF is not a business corporation and this is not a business dispute, but a dispute over the control and affairs of a New York State charitable organization.

For these reasons, the movants' request that this case be assigned to the Commercial Division is denied.

Dated: October 7, 2009

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

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION