

there will be argument on that motion before Justice Lehner. The Administrative Judge should not have to make such an evaluation. The question of where a case ought properly to be assigned should be raised expeditiously, promptly after an assignment that a party considers to have been made incorrectly. Here, plaintiffs waited over four months, without any justification. At the very least, counsel for plaintiffs should have raised the question when actually present before the Justice's Law Secretary on December 15, 2004. Instead, counsel waited two more months. Furthermore, to reassign this case now would very likely result in additional delay until the matter can appear on the argument calendar of a new Justice. This delay would be unnecessary; if the case truly belongs in the Commercial Division, that could have been determined and the procedures needed to effectuate that could have been implemented in the days or weeks after October 15, 2004, while the motion now submitted was being briefed. The application is denied.

Dated: March 9th, 2005


A.J.