

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

PRESENT: Hon. Jacqueline Silbermann  
Administrative Order

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IN THE MATTER OF MCLAUGHLIN, PIVEN,  
VOGEL SECURITIES, INC., and LAWRENCE  
T. TULENKO,

Petitioners,

- v -

INDEX NO. 600616/2008

ROBERT FERRUCCI,

Respondent.

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Administrative Order:

By letter dated March 31, 2008, counsel for the petitioners requests a transfer of this action from I.A.S. Part 5 (Rakower, J.) to the Commercial Division pursuant to Uniform Rule 202.70.

Petitioners' counsel filed the Request for Judicial Intervention (RJI) on March 12, 2008 in connection with this Article 75 proceeding to vacate an arbitration award. On the RJI, petitioners' counsel marked the case as a non-commercial matter by checking the box for "Article 75 (Arbitration)." Counsel states that he did not realize that selecting "Article 75" as the nature of this action would mean assignment to a non-commercial part, since he purchased a Commercial Division index number.

Uniform Rule 202.70(e) provides that the parties who did not file the RJI may object to a non-commercial designation within 10 days of their receipt of a copy of the RJI. Uniform Rule 202.70(f)(2) allows a party who followed the requirements for assignment of the case to the Commercial Division, but whose case was sua sponte transferred by the assigned Commercial Division justice, to seek review of that order by letter application within 10 days of notice of the transfer. Nothing in the Uniform Rule allows the party who filed the RJI to request a transfer on the ground that the original designation of the case was a mistake. In addition, petitioners' counsel fails to provide a copy of the underlying petition in order for this court to evaluate whether the proceeding falls within the standards for assignment to the Commercial Division. See Uniform Rule 202.70(d)(2).

**For these reasons, the request for a transfer is denied.**

Dated: April 1, 2008

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

Check one:  FINAL DISPOSITION       NON-FINAL DISPOSITION