

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

PRESENT: Hon. Jacqueline Silbermann  
Administrative Order

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GERALD S. KAUFMAN, et al.,

Plaintiffs,

- v -

INDEX NO. 601320/01

IRWIN B. COHEN, et al.,

Defendants.

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Administrative Order:

By letter dated July 28<sup>th</sup>, counsel for plaintiffs request that this action be transferred to the Commercial Division pursuant to Uniform Rule 202.70(e). Defendants oppose the request on the ground that it is untimely and accuse plaintiffs of engaging in blatant forum-shopping.

This action was commenced in 2001. Defendants filed a Request for Judicial Intervention (RJI) in August 2001 in connection with a motion to dismiss the complaint. The case was marked "Other Tort: Breach of Fiduciary Duty," and assigned to a non-commercial judge. After the dismissal of the action was reversed on appeal, and defendant's motion for summary judgment briefed, Judge Kornreich recused herself by order dated June 30, 2006. The action was thereafter re-assigned to another non-commercial part on July 6, 2006.

Uniform Rule 202.70(e) places a 10-day time limit on these applications, measured from the receipt of a copy of the RJI. Here, the RJI was filed almost five years ago. Even if Justice Kornreich's recusal was deemed a sufficient reason to justify transfer of this case into the Commercial Division, the application was still untimely as the action was re-assigned on July 6th, more than 10 days prior to the time plaintiffs made this application. Indeed, the summary judgment motions have already been scheduled for oral argument before the new assigned judge.

Accordingly, for these reasons, the request is denied.

Dated: August 9, 2006

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

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION