

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

NEEDLEPOINT TEXTILE PRODUCTS PVT. LTD,

Plaintiff,

- v -

INDEX NO. 112427/2011

ROYAL HERITAGE HOME, LLC,

Defendant.

Administrative Order:

By letter dated October 26, 2012, counsel for defendant requests that this action be assigned to the Commercial Division. To date, no opposition has been received.

Defendant filed a Request for Judicial Intervention (RJI) on November 29, 2011. Defendant's counsel asserts that he did not mark the RJI commercial, because the claims alleged in the complaint did not meet the Commercial Division's monetary threshold. However, counsel contends that his answer, filed on March 21, 2012, asserts counterclaims which exceed the monetary threshold, and thus, this action now qualifies for the Commercial Division.

As it was the defendant's counsel who filed the RJI, he cannot request a transfer because the right to appeal an RJI designation is limited to "any other party." See Uniform Rule 202.70 (e). Further, even if the defendant's counterclaims were considered, this application is untimely. Uniform Rule 202.70 (e) places a 10-day time limit on these applications, measured from the receipt of a copy of the RJI, and the time limit is strictly construed. It was incumbent on the defendant to raise the issue of the counterclaims at the time the RJI was filed, or in March 2012, when defendant filed its answer.

Therefore, the request to transfer this action into the Commercial Division is denied.

Dated: November 29, 2012

ENTER: , A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION