

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

PRESENT: Hon. Peter H. Moulton
Administrative Order

RICKY ZEGELSTEIN, M.D. et al.,

Plaintiffs,

- v -

INDEX NO. 158437/2015

ALAN RAYMOND, M.D.,

Defendant.

Administrative Order:

By letter dated March 4, 2016¹, counsel for defendant requests assignment of this action to the Commercial Division pursuant to Uniform Rule 202.70 (e). To date, the court has not received any response to this request.

Defendant's counsel e-filed a Request for Judicial Intervention (RJI) on January 4, 2016. The RJI designated this case as a commercial matter, but counsel did not file the required Commercial Division Addendum. Thus, the case was assigned to General I.A.S. Part 15 (J. Rakower) on January 26, 2016.

Uniform Rule 202.70 (e) places a 10-day time limit on these applications, measured from the receipt of a copy of the RJI or notification that a case was not assigned to the Commercial Division. This time limit is strictly construed, and, thus, defendant's request is untimely. Further, it was defense counsel who filed the RJI, and, as the right to seek a transfer to the Commercial Division is limited to "any other party," he cannot make this application (see Uniform Rule 202.70 [e]).

Although defense counsel argues that Commercial Division Justice Anil Singh presided over an alleged related action, Zegelstein et al. v Faust et al., Index No. 651198/14, that action is disposed of, making assignment of this current action to Justice Singh unwarranted (see Operations Manual, § I [D] [2]). Defense counsel also asserts that another related action was recently filed, Zegelstein et al. v Chaudhry et al., Index No. 653683/15. However, as the parties have not filed an RJI in that new action, they have yet to seek judicial intervention and assignment of a judge.

Accordingly, the request for a transfer to the Commercial Division is denied.

Dated: March 10, 2016

ENTER: , A.J.

HON. PETER H. MOULTON
SUPREME COURT JUSTICE

¹Counsel misdated this letter March 4, 2015.