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

PRESENT: Hon. JACQUELINE W. SILBERMANN ~~PART~~
Administrative Judge ~~Justice~~

National Kidney Foundation

- v -

Kidney & Urology Foundation

INDEX NO. 603109/2003

~~MOTION DATE~~

~~MOTION SEQ. NO.~~

~~MOTION CAL. NO.~~

The following papers, numbered 1 to _____ were read on this motion to/for _____

	PAPERS NUMBERED
Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...	
Answering Affidavits — Exhibits	
Replying Affidavits	

Cross-Motion: ☐ Yes ☐ No

~~Upon the foregoing papers, it is ordered that this motion~~

Plaintiff has requested the transfer of this matter into the Commercial Division. Defendant opposes the request. Although the parties to this case are not in the business of seeking profits, they are entities and the issues raised have to do with alleged breach of contract and breach of fiduciary duty. Corporate contract and breach of fiduciary duty claims are appropriate for determination in the Division, as is made clear in the *Guidelines for Assignment of Cases to the Commercial Division.* Defendant suggests that the transfer question be addressed later, if its motion is not granted, but efficiency and conservation of judicial resources require that the transfer matter be addressed as early in the life of a case as possible. If the breach of contract and breach of fiduciary duty claims were to be dismissed, there is no reason why a Division Justice could not resolve the accounting and conversion claims; the case would not be transferred out of the Division at that point. Accordingly, the case is referred to the Motion Support Office for reassignment at random to a Justice of the Commercial Division.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE _____ J.S.C.

DATED: _____

Dated: 1/7/04

_____ J.S.C.

Check one: ☐ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION