

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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

ASSOULINE RITZ1 LLC and LICHTEN
RITZ2 LLC,

Plaintiffs,

- v -

INDEX NO.602552/2006

EDWARD I. MILLS & ASSOCIATES,
ARCHITECTS, PC, EDWARD I. MILLS, and
JAMES KETTIG

Defendants.

Administrative Order:

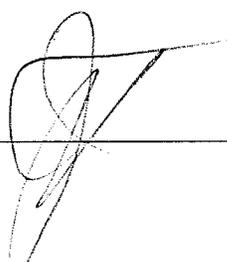
By letter dated February 14th, counsel for plaintiffs have applied for a transfer of this action from I.A.S. Part 59 (James, J.) to the Commercial Division pursuant to Uniform Rule 202.70. The Court has not received an objection to plaintiffs' application.

Defendants filed a Request for Judicial Intervention (RJI) on January 17, 2007, requesting a preliminary conference. On the RJI, defendants identified the nature of the action as "Torts, Other Professional." Plaintiffs do not indicate in their application when they were served with a copy of the RJI, a vital part of their application for a transfer. Plaintiffs only indicate that they received notice, on February 7th, of a preliminary conference before Justice James. However, Uniform Rule 202.70 (e) measures the timeliness of a transfer application from the receipt of a copy of the RJI, and not receipt of a conference notice.

Therefore, plaintiffs' application for a transfer is untimely pursuant to Uniform Rule 202.70 (e). As previously stated, Uniform Rule 202.70 (e) places a 10-day time limit on these applications, measured from the receipt of a copy of the RJI. The RJI was filed on January 17, 2007, almost a month ago. Plaintiffs had a 10-day time limit to make this application, running from their receipt of a copy of the RJI. Plaintiffs fail to state in their application that they have complied with the 10-day rule. Further, plaintiffs do not offer proof, nor does their counsel indicate

when they were served with a copy of the RJI after it was filed on January 17, 2007. Therefore, the Court finds that the plaintiffs' application is untimely. Accordingly, for these reasons, the request is denied.

Dated: February 16 2007

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION