

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

ROSALIE BERGER and STANFORD BERGER,
individually and derivatively on behalf of
CENTECH, LLC ,

Plaintiffs,

- v -

INDEX NO. 651805/10

PARK PLACE ADVISORS, INC., BRADLEY GORDON,
in his individual capacity and d/b/a DEVAN
HOLDINGS LLC, DEVAN HOLDINGS LLC,

Defendants,

and CENTECH, LLC, Nominal defendant.

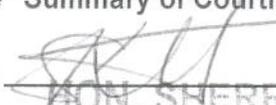
Administrative Order:

By letter dated January 6, 2011, plaintiffs' counsel applies for a transfer of this action from I.A.S. Part 44 (Tingling, J.) to the Commercial Division pursuant to Uniform Rule 202.70. Defendants oppose this request.

On December 21, 2010, defendants filed a Request for Judicial Intervention (RJI) in connection with their motion to dismiss the complaint. Defendants did not designate the case commercial, and the matter was assigned to a non-commercial part. It is undisputed that plaintiffs received a copy of the RJI on December 21, 2010. 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. The request for a transfer is, therefore, denied as untimely. Even taking into account the two days that the court was closed for the holidays, at the latest, plaintiffs should have made their request by January 3, 2011.

There is another issue in regard to the fact that, on the RJI, defendants marked this action as related to 9 Bleecker LLC v Yippie Holdings, LLC, Index No. 102710/09 (Bleecker Action) and Centech, LLC v. Yippie Holdings, LLC, et al., Index No. 107802/09 (Centech Action). While the Bleecker Action has been disposed of, the Centech Action is still active, and thus, this action should have been assigned to Justice Oing as related. Justice Oing has taken over the inventory of the recently retired Justice Diamond. I am therefore reassigning this action to Justice Oing, and the decision as to whether this action is truly related to the Centech Action, belongs, in the first instance, to him (see Section I[B] of the "Summary of Courthouse Procedures").

Dated: January 10, 2011

ENTER: 

A.J.

HON. SHERRY KLEIN HEITLER

ADMINISTRATIVE JUDGE

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION