

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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

**DONALD BEEBOUT, Derivatively on Behalf of
Nominal Defendant BRISTOL-MYERS SQUIBB COMPANY,**

Plaintiff,

- v -

INDEX NO. 602579/07

**PETER R. DOLAN, RICHARD WILLARD, JAMES M.
CORNELIUS, JAMES D. ROBINSON III, LEWIS B.
CAMPBELL, LOUIS J. FREEH, LAURIE H. GLIMCHER
and LEIF JOHANSSON,**

Defendants,

and

BRISTOL-MYERS SQUIBB COMPANY,

Nominal Defendant.

**JOHN FRANK, Derivatively on Behalf of
Nominal Defendant BRISTOL-MYERS SQUIBB COMPANY,**

Plaintiff,

- v -

INDEX NO. 602580/07

**PETER R. DOLAN, RICHARD WILLARD, JAMES M.
CORNELIUS, JAMES D. ROBINSON III, LEWIS B.
CAMPBELL, LOUIS J. FREEH, LAURIE H. GLIMCHER
and LEIF JOHANSSON,**

Defendants,

and

BRISTOL-MYERS SQUIBB COMPANY,

Nominal Defendant.

Administrative Order:

By letter dated September 6, 2007, counsel for nominal defendant Bristol-Myers Swibb Company

applies for a transfer of these two related actions from I.A.S. Part 12 (Kapnick, J.) to the Commercial Division pursuant to Uniform Rule 202.70(e).

Although Bristol-Myers filed the Request for Judicial Intervention (RJI) in the Frank action on August 23rd, and properly designated this shareholder derivative action as a commercial case and filed the requisite signed statement justifying the commercial designation, the action was assigned on September 5th to Justice Kapnick, a non-commercial part. This was due to the fact that the RJI listed the Beebout action, an identical shareholder derivative action involving a different named plaintiff, as a related action and the Beebout action had earlier been assigned to Justice Kapnick. It appears that the RJI in the Beebout action was filed by the plaintiff on August 28th, who although designating the case as a commercial matter, did not file a supporting statement as required by Uniform Rule 202.70(d)(2).

There is no question that both of these shareholder derivative actions are commercial matters that should be heard in the Commercial Division. See Uniform Rule 202.70(b)(4).

Accordingly, the Motion Support Office is directed to reassign these cases at random to the same Justice of the Commercial Division. (A motion to consolidate the two actions in the Beebout action is on the Initial Motion Calendar on September 10, 2007. A motion to dismiss the complaint in the Frank action is on the Commercial Initial Motion Calendar on September 14, 2007).

Dated: September 7, 2007

Check one: FINAL DISPOSITION

ENTER: _____, A.J.

NON-FINAL DISPOSITION