

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

**PRESENT: Hon. Jacqueline Silbermann  
Administrative Order**

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**MICHAEL BRESCIA, OLIVER DIRKS, BRYAN  
DOORISH, CAROL DOORISH, JAIME DOORISH,  
PETER OSHIRO, ROBERT WELLS,**

**Plaintiffs,**

**- v -**

**INDEX NO. 601336/2007**

**JOEL AARON SILBERMAN, JEFF TREZZA,  
MICHAEL DOHERTY & ONYZ CORPORATION,**

**Defendants.**

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**Administrative Order:**

By memorandum dated October 3, 2007, I am informed by the Hon. Emily Jane Goodman (I.A.S. Part 17) that the defendants Trezza and Doherty have requested a transfer of this action from her part to the Commercial Division pursuant to Uniform Rule 202.70(b)(4). While there is no doubt that this shareholder derivative action seeking damages in excess of \$100,000 meets the requirements for assignment to the Commercial Division, the request for a transfer is denied as untimely and procedurally defective.

This action was originally designated as a "Other Commercial-Shareholder Derivative" by defendants' counsel on the Request for Judicial Intervention (RJI) she filed on June 28, 2007 together with the required supporting statement. For some unknown reason, perhaps the failure to submit a copy of the complaint (see Uniform Rule 202.70[d][2]), the clerk's office assigned the matter to Justice Goodman on July 9, 2007. Defendants' counsel had 10 days from receipt of the designation of the case to a non-commercial part (see Uniform Rule 202.70[f][2]) to make a letter application to the Administrative Judge with a copy to all parties. The court notes that defendants' motion to dismiss was adjourned four times since the original return date, and counsel should have been aware in the three months since the RJI was filed that this case had not been assigned to the Commercial Division.

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

Dated: October 5, 2007

ENTER: \_\_\_\_\_, A.J.

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION