

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

LOWER MANHATTAN DIALYSIS CENTER, INC., et al.,

Plaintiffs,

- v -

INDEX NO. 602547/07

JOHN P. LANTZ, M.D. and MARIE LANTZ,

Defendants.

Administrative Order:

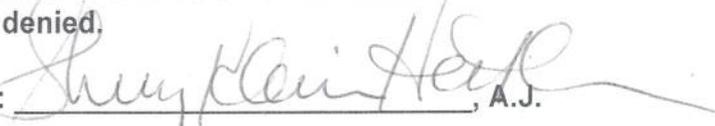
By letter dated January 6, 2011, plaintiffs-counterclaim defendants request that this action, previously assigned to former Commercial Division Justice, the Hon. Richard B. Lowe, be assigned to either Commercial Division Justices, the Hon. Bernard Fried or the Hon. James Yates. This action was recently reassigned to Commercial Division Justice, the Hon. Barbara Kapnick, upon Justice Lowe's appointment to the Appellate Term.

Plaintiffs' counsel argues that both Justice Fried and Justice Yates have handled related matters (Estate of John P. Lantz v. L-M Dialysis Corp., Index No. 111961/09 and In re John Lantz, Index No. 112083/08 [Fried Actions] and Lower Manhattan Dialysis Center, Inc. v. Estate of John P. Lantz, Index No. 603486/09 [Yates Action]) and thus, this action should be reassigned to one of these two Justices.

However, the recent appointment of Justice Lowe to the Appellate Term does not justify a reassignment of this action. The time to assert that an action is related to another pending case is at the time of filing the Request for Judicial Intervention (RJI). The RJIs in the Fried Actions, filed back in July 2009 and September 2009, and the Yates Action, filed back in February 2010, did not indicate this action as related. In addition, the Court notes that Justice Yates is leaving the bench.

For these reasons, the parties' request for a transfer of this action to the Hon. Bernard Fried or the Hon. James Yates is denied.

Dated: January 11, 2011

ENTER:  , A.J.

HON. SHERRY KLEIN HEITLER
ADMINISTRATIVE JUDGE

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