

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

PRESENT: Hon. Peter H. Moulton  
Administrative Order

LAUREN WHOLEY and THOMAS ROSENBLUTH,

Plaintiffs,

- v -

INDEX NO. 162934/2015

AMGEN INC., WYETH, INC., WYETH LLC,  
WYETH PHARMACEUTICALS, INC., and  
PFIZER, INC.,

Defendants.

Administrative Order:

By letter dated March 28, 2016, counsel for defendants Wyeth LLC, Wyeth Pharmaceuticals Inc. and Pfizer Inc. requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70 (e). To date, no further correspondence on this matter has been received.

On March 15, 2016, defense counsel filed a Request For Judicial Intervention and Commercial Division Addendum certifying that this action qualifies for assignment to the Commercial Division pursuant to Uniform Rule 202.70 (b) (1) (breach of contract or fiduciary duty, fraud, misrepresentation, business tort, or statutory and/or common law violation arising out of business dealings) and Uniform Rule 202.70 (b) (2) (transactions governed by the Uniform Commercial Code). The General Clerk's Office rejected the request to assign this action to the Commercial Division on the ground that this is a products liability action.

I agree with the determination of the Clerk's Office that this action, in which the plaintiffs seek to enjoin further sale of the drug Enbrel<sup>®</sup> (etanercept), and to recover damages for personal injuries allegedly sustained by plaintiff Lauren Wholey from taking Enbrel after enrolling in a clinical trial of the drug, does not fall within any of the categories for assignment to the Commercial Division.

Dated: April 4, 2016

ENTER: , A.J.

HON. PETER H. MOULTON  
SUPREME COURT JUSTICE

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION