

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

**PRESENT: HON. DEBORAH A. KAPLAN**

***Administrative Judge***

FAWN SECOND AVENUE LLC, 1881 SECOND AVENUE  
LLC, SFP 1881 HOLDINGS LLC

INDEX NO. 655735/2018

Plaintiff,

- v -

FIRST AMERICAN TITLE INSURANCE COMPANY,

Defendant.

**ADMINISTRATIVE  
ORDER**

By letter dated July 15, 2019, Jaimee Katz Sussner, Esq., counsel for defendant requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70.

In the complaint, plaintiffs claim that they were damaged because a title report and title insurance issued by defendant failed to disclose that the property in question is located in a historic landmarked district. The causes of action in the complaint are based on theories of breach of contract and negligence and seek "an amount to be determined at trial or inquest, but which is believed to exceed \$250,000." A third cause of action seeks declaratory judgment that the landmarked status of the property is a covered event under the title insurance policy.

The monetary threshold for actions to be assigned to the Commercial Division in New York County is \$500,000. Here notwithstanding the fact that damages in the amount of approximately \$250,000 are claimed, counsel asserts that the action should be assigned to the Commercial Division because the complaint contains the aforesaid request for a declaratory judgment.

It is evident that this action primarily concerns a claim for roughly \$250,000 in damages and that the request for declaratory relief is ancillary to the monetary

claim. The court therefore rejects the claim that this action satisfies the monetary criteria for assignment to the Commercial Division.

Accordingly, the request for assignment to the Commercial Division is denied.

DATE: *August 26, 2019*



Hon. Deborah A. Kaplan  
Administrative Judge  
Supreme Court, New York County  
Civil Branch