

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

PRESENT: Hon. Joan B. Carey, Acting Administrative Judge  
Administrative Order

CAPMARK FINANCE GROUP, INC., as servicer  
for Capmark Bank,

Plaintiff,

-against-

INDEX NO. 603196/08

2 SOUTH AVENUE PARTNERS, LLC,  
RICHARD HOCH, DAVID SOARES, JOSEPH  
ESMAIL, CITY OF NEW YORK, and COVE  
CLUB CONDOMINIUM,

Defendants.

[and a third-party action]

Administrative Order:

By letter dated March 5, 2009, counsel for the plaintiff/counterclaim defendant and third-party defendants (Capmark) timely requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70.

Although the action was not initially assigned to the Commercial Division due to the fact that Capmark's counsel did not designate this action as a commercial matter on the Request for Judicial Intervention he filed, counsel for defendants 2 South Avenue Partners, LLC, Richard Hoch, Davil Soares and Joseph Esmail, joins in the request. There is no dispute that this action, in which Capmark seeks to foreclose on a commercial property based on the default of a \$12 million loan to which the defendants have asserted counterclaims for, inter alia, breach of contract and fraud, meets the requirements for assignment to the Commercial Division in New York County. See Uniform Rule 202.70(a), (b)(1) and (3).

The Motion Support Office is directed to reassign this case at random from I.A.S. Part 57 (Friedman, J.) to a Justice of the Commercial Division. (An initial motion is currently returnable in the Motion Submissions Part on April 6, 2009.)

Dated: March 20, 2009

ENTER:  , A.J.

Check one: ☐ FINAL DISPOSITION

☐ NON-FINAL DISPOSITION