

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

PRESENT: Hon. Peter H. Moulton
Administrative Order

BARCLAYS BANK PLC, CREDIT SUISSE
LOAN FUNDING LLC, MIDTOWN
ACQUISITIONS L.P., and SPECIAL
SITUATIONS INVESTING GROUP, INC.,

Plaintiffs-Judgment Creditors,

- v -

INDEX NO. 157086/2016

ESSAR GLOBAL FUND LIMITED,

Defendant-Judgment Debtor.

Administrative Order:

By letter November 21, 2016, counsel for plaintiff-judgment creditor Midtown Acquisitions L.P. (Midtown) requests that this special proceeding be transferred to the Commercial Division. By letter dated November 22, 2016, counsel for defendant-judgment debtor Essar Global Fund Limited (EGFL) advises that his client has no objection to the request.

On August 25, 2016, the Clerk of the Court entered a Judgment by Confession (Judgment) against EGFL in the amount of \$171,769,169.00. On November 2, 2016, a motion was made by certain non-parties to quash subpoena duces tecum served in connection with Midtown's efforts to enforce the Judgment. The Request for Judicial Intervention (RJI) did not designate the case as a commercial case, no Commercial Division addendum was filed, and the case was assigned to the Hon. Manual J. Mendez (I.A.S. Part 13). On November 11, 2016, EGFL filed a motion to vacate the Judgment pursuant to CPLR 5015 (a) (3). Counsel for Midtown argues that the filing of the motion to vacate the Judgment now justifies assignment of this special proceeding to the Commercial Division pursuant to Uniform Rule 202.70 (a), (b) (1).

Uniform Rule 202.70 (c) (5) excludes from the Commercial Division "proceedings to enforce a judgment regardless of the nature of the underlying case." As commenced, this proceeding falls squarely within this exclusion. EGFL's motion to vacate is, in its essence, an effort to avoid enforcement of the Judgment. Thus, the request for a transfer of this special proceeding to the Commercial Division is denied.

Dated: November 23, 2016

ENTER: , A.J.

Check one: ☐ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION