

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

**PRESENT: Hon. Jacqueline Silbermann
Administrative Order**

SB & T CORP., and JOHN YONKUS,

Plaintiffs,

- v -

INDEX NO. 101674/08

**114 TENTH AVENUE ASSOC., INC., D/B/A
114 TENTH AVENUE ASSOCIATES, INC
and ZIVADAN KRSTIC,**

Defendants.

Administrative Order:

By letter dated February 6, 2008, defendants apply for a transfer of this action from I.A.S. Part 48 (Diamond, J.) to the Commercial Division pursuant to Uniform Rule 202.70. There is no opposition from plaintiffs' counsel and the application is timely pursuant to Uniform Rule 202.70(e).

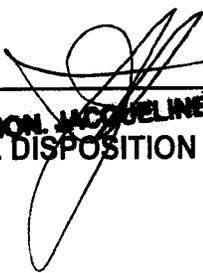
Plaintiffs' counsel filed a Request for Judicial Intervention (RJI) on January 28, 2008 designating this action as a non-commercial matter. Defendants contend that this action meets the standards for assignment to the Commercial Division, because the complaint seeks a Yellowstone injunction in connection with the alleged breach of a commercial lease.

Uniform Rule 202.70(b) (1) and (3) provide that actions in which the principal claims involve or consist of breach of contract where the breach or violation is alleged to arise out of business dealings and "[t]ransactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only" will be heard in the Commercial Division provided the \$100,000 monetary threshold for New York County is met or the action seeks declaratory or equitable relief. Thus, there is no question but that the nature of the action makes it one that should be assigned to the Commercial Division.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. A hearing on plaintiffs' motion for a preliminary injunction and temporary restraining order is currently scheduled in I.A.S. Part 48 on February 14, 2008. Counsel is directed to contact the part clerk of the newly-assigned Commercial Division Justice to confirm or re-schedule the hearing.

Dated: February 8, 2008

ENTER: _____


A.J.
HON. JACQUELINE W. SILBERMANN

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION