

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**1486**

**CA 17-00899**

PRESENT: WHALEN, P.J., SMITH, CARNI, TROUTMAN, AND WINSLOW, JJ.

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ENCORE PROPERTIES OF ROCHESTER, LLC,  
PLAINTIFF-APPELLANT,

V

ORDER

WELLS FARGO BANK, N.A., AS TRUSTEE FOR REGISTERED  
HOLDERS OF CREDIT SUISSE FIRST BOSTON MORTGAGE  
SECURITIES CORP., COMMERCIAL MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2007-C5, DEFENDANT-RESPONDENT,  
ET AL., DEFENDANT.

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JOSEPH A. TADDEO, JR, ROCHESTER, FOR PLAINTIFF-APPELLANT.

WOODS OVIATT GILMAN LLP, ROCHESTER (JOHN C. NUTTER OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Monroe County (Matthew A. Rosenbaum, J.), entered September 15, 2016. The order, inter alia, granted the motion of defendant-respondent to dismiss the complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: December 22, 2017

Mark W. Bennett  
Clerk of the Court