

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

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

1515 BROADWAY FEE OWNER LLC,

Petitioner,

- v -

INDEX NO. 100567/10

ALL STAR CAPITAL, INC.,

Respondent.

Administrative Order:

By letter dated January 21, 2010, counsel for respondent All Star Capital, Inc. requests that this proceeding be assigned to the Commercial Division pursuant to Uniform Rule 202.70 (e). By letter dated January 21, 2010, counsel for the petitioner objects to this application. The Court is also in receipt of respondent's counsel's reply letter dated January 22, 2010.

This proceeding is brought in aid of enforcing a judgment pursuant to CLPR Article 52. Specifically, petitioner seeks to invalidate a UCC-1 lien filed by the respondent on assets of a judgment debtor, the petitioner's former tenant. Uniform Rule 202.70 (c) (4) provides that actions to enforce a judgment, regardless of the nature of the underlying action, are outside the scope of cases to be heard in the Commercial Division. Thus, this action is not of a commercial nature.

Counsel for respondent also asserts that this matter is substantially related to 1515 Broadway Fee Owner LLC v WURK-Times Square, LLC., Index No. 602719/09, an attornment action before Justice Richard B. Lowe III in the Commercial Division (WURK Action). However, after a review of the complaint in the WURK Action, the present matter is not substantially related. Further, the court's case management system lists the WURK Action as disposed.

Accordingly, the request of a transfer of this proceeding to the Commercial Division is denied.

Dated: January 26, 2010

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION