

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

PRESENT: Hon. Joan B. Carey
Administrative Order

GE BUSINESS FINANCIAL SERVICES, INC., f/k/a
MERRILL LYNCH CAPITAL,

Plaintiff,

- v -

INDEX NO. 601624/2009

166 WEST 75TH STREET, LLC, et al.,

Defendants.

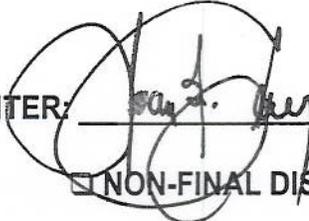
Administrative Order:

By letter dated June 8, 2009, plaintiff applies, ex parte, for a transfer of this action from I.A.S. Part 19 (Lehner, J.) to the Commercial Division pursuant to Uniform Rule 202.70.

Plaintiff's counsel filed a Request for Judicial Intervention (RJI) on June 5, 2009 in connection with its ex parte motion for the appointment of a rent receiver, and, in so doing so, attempted to designate this action as a commercial case. However, the designation was properly rejected by the clerk's office on the basis that the property at issue is a residential apartment building and is considered a non-commercial case pursuant to Uniform Rule 202.70 (b) (3), which excludes "residential real estate disputes" from assignment to the Commercial Division. The fact that the building at issue contains one commercial establishment, a restaurant, compared to over 200 residential units does not transform this building into commercial real property.

Accordingly, plaintiff's application for assignment to the Commercial Division is denied.

Dated: June __, 2009

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION