

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

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

**GENERAL ELECTRIC CAPITAL
CORPORATION,**

Plaintiff,

- v -

INDEX NO. 600184/2008

**9TH & 10TH STREET, L.L.C., a New York
Limited Liability Company; THE NEW YORK
CITY ENVIRONMENTAL CONTROL BOARD,
and "JOHN DOE #1" to "JOHN DOE #50,"
et al.,**

Defendants.

Administrative Order:

By letter dated March 26, 2008, plaintiff timely applies for a transfer of this action to the Commercial Division pursuant to Uniform Rule 202.70. Defendant 9th and 10th Street, L.L.C. opposes a transfer on the grounds that this action does not fall within the standards for assignments of cases to Commercial Division, because it involves the foreclosure of a mortgage.

Counsel for defendant 9th and 10th Street filed a Request for Judicial Intervention (RJI) on March 18, 2008, designating this action as "Real Property - Foreclosure," and the action was assigned to I.A.S. Part 16 (Schlesinger, J.). Plaintiff contends that this action meets the standards for assignment to the Commercial Division, because the plaintiff seeks to foreclose on a mortgage of a commercial property whose outstanding balance is \$12,572,000. Defendant 9th and 10th Street contends that, if this type of action was intended to be commercial, Uniform Rule 202.70 would specifically provide for it, and the RJI would list foreclosures under "Commercial" instead of "Real Property." Further, 9th and 10th Street argues that the Justices of the Commercial Division should not be burdened with the many foreclosure actions that are likely to be commenced due to the current state of the economy.

Uniform Rule 202.70(b)(3) provides that actions involving commercial real property, not involving the payment of rent, will be heard in the Commercial Division provided the \$100,000 monetary threshold for New York County is met or

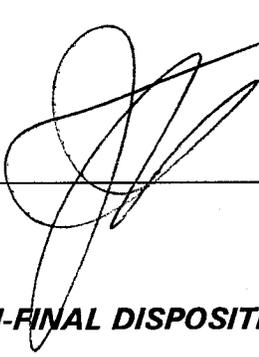
the action seeks declaratory or equitable relief. Thus, there is no question but that the nature of the action makes it one that should be assigned to the Commercial Division.

Defendant 9th and 10th Street's arguments are without merit. Uniform Rule 202.70(b)(3) encompasses a variety of actions involving commercial real property, and it cannot be assumed that the Rule would specifically list foreclosures as a subject matter requiring assignment to the Commercial Division. Further, the RJI form was created before the Commercial Division came into being. When the Commercial Division was formed, the "Commercial" heading on the RJI was added. There are other actions, such as Article 75, that perhaps may be commercial in nature, but are not specifically listed under "Commercial." This is one reason why the RJI has provided a section for "Other Commercial." Finally, the current state of the economy will not dictate what does or does not belong in the Commercial Division.

Accordingly, the Motion Support Office is directed to reassign this case at random to a Justice of the Commercial Division. (There is a motion returnable in the Motion Submissions Part on April 7, 2008).

Dated: April 1, 2008

ENTER: _____, A.J.

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Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION