

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

PRESENT: Hon. Peter H. Moulton
Administrative Order

G.F.A. ADVANCED SYSTEMS, LTD.,

Plaintiff,

INDEX NO. 161873/14

-v-

CAPITAL ONE, NATIONAL ASSOCIATION,

Defendant.

Administrative Order:

By letter dated April 14, 2015, counsel for plaintiff G.F.A. Advanced Systems, Ltd. (GFA) requests that this action be reassigned from the Hon. Jeffrey Oing, Commercial Division Part 48, to the Hon. Eileen Rakower (I.A.S. Part 15) as related to two prior actions in this court (Index Nos. 104522/12 & 156940/14). By letter dated April 22, 2015, defendant Capital One, National Association (Capital One) opposes the request and asks that this action remain in the Commercial Division pursuant to Uniform Rule 202.70.

In December 2012, GFA commenced an action in this court entitled G.F.A. Advanced Systems, Ltd., et al. v. Local Ocean, LLC, et al. (Index No. 104522/12), seeking to domesticate an Israeli Judgment against certain entities, including Sanit LLC, by moving for summary judgment in lieu of complaint. That motion was granted, and the Israeli Judgment was entered on or about July 15, 2013. After enforcement proceedings were commenced, a motion was filed on behalf of Gili and Benjamin Haberberg seeking to vacate the Israeli Judgment against Sanit LLC on the ground, inter alia, that the Haberbergs operated a separate New York limited liability company also named Sanit LLC that had nothing to do with the subject of the Israeli Judgment. After conducting three days of hearings, Justice Rakower denied the motion by decision and order entered April 7, 2014.

In July 2014, the Haberbergs commenced the second action entitled Gili Haberberg, et al. v G.F.A. Advanced Systems Ltd., et al. (Index No. 156940/14), also assigned to Justice Rakower. In this second action, the Haberbergs moved, inter alia, to stay enforcement of the Israeli Judgment against Sanit LLC. The court denied that motion, finding that all of the issues regarding the rights of the Haberbergs as to Sanit LLC were previously adjudicated in the first action. The second action was severed and dismissed against GFA and New York City Marshall Stephen Biegel, but remains pending as to the remaining defendants.

In this third action, which was assigned to Commercial Division Justice Oing,

GFA seeks a declaratory judgment regarding the rights and priorities of GFA, as a judgment creditor of Sanit LLC vis-a-vis Capital One, who holds a mortgage against property located at 1597 York Avenue, New York, New York, a mortgage which was signed by Gili Haberberg on behalf of Sanit LLC.

Pursuant to Uniform Rule 202.70 (c) (4), "proceedings to enforce a judgment regardless of the nature of the underlying case" will not be heard in the Commercial Division. Therefore, after consultation with Justice Oing, I am of the opinion that this action does not meet the requirements for assignment to the Commercial Division and will be reassigned to a non-commercial part.

The decision as to whether this action is related to the prior two actions handled by Justice Rakower belongs, in the first instance, to the assigned justice (see Section I[B] of the "Summary of Courthouse Procedures"). Therefore, I am directing that this action be reassigned to I.A.S. Part 15 and I am forwarding the parties' correspondence to Justice Rakower. If Justice Rakower, determines that the cases are not related, she may direct that this action be randomly reassigned to a non-commercial part by issuing an order to that effect, attaching a copy of this Administrative Order.

For the foregoing reasons, the General Clerk's Office is directed to reassign this action to I.A.S. Part 15 (Rakower, J.). (A motion to dismiss the complaint is currently returnable on May 18, 2015 in the ECF Submissions Part.)

Dated: April 23, 2015

ENTER:  _____, A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION