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# Show Me the Money: The Commercial Division's Monetary Threshold for Cases Seeking Equitable or Declaratory Relief

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Until recently, the Rules of the Commercial Division of the Supreme Court of New York exempted cases principally seeking equitable or declaratory relief from the monetary threshold requirement. See Memorandum on Proposed Modification of Criteria for Assignment to Commercial Division from Subcommittee to Commercial Division Advisory Council (July 15, 2024) (CDAC Mem.). But a January 2025 administrative order amended the jurisdictional requirement such that cases seeking equitable or declaratory relief must now satisfy the applicable monetary threshold. See 22 NYCRR § 202.70(b); AO/038/25 (Jan. 28, 2025). Pursuant to this amended language, effective as of March 31, 2025, "for such actions that seek equitable or declaratory relief, satisfaction of the applicable monetary threshold shall be measured by the *value of the object of the action*." *Id.* § 202.70(b) (emphasis added). This article provides an overview of the Commercial Division's jurisdictional requirements and caselaw pertaining to the "value of the object of the action" standard—"a term of art drawn from federal practice." CDAC Mem. at 3 (citing *Hunt v. Washington*

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*State Apple Advertising Commission,* 432 U.S. 333, 347 (1977)).

The Commercial Division is a court of limited subject matter jurisdiction that hears enumerated categories of presumptively commercial matters, including a wide range of complex, business-related disputes. See 22 NYCRR § 202.70(b). In order for a case to be heard in the Commercial Division, it must fall under one of the enumerated categories and satisfy the applicable monetary threshold. The monetary threshold, "exclusive of punitive damages ... and counsel fees," ranges from

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$50,000 for cases pending in Albany and Suffolk counties to $500,000 for those in New York County. See (exempting four disputes from any monetary threshold: shareholder derivative actions; commercial class actions; actions seeking corporate dissolution; and Article 75 proceedings relating to international arbitrations).

As explained by the Commercial Division Advisory Council memorandum, the January 2025 Amendment was proposed to better allocate the Commercial Division's resources towards complex cases and prevent cases "that would not otherwise qualify for Commercial Division treatment from drawing disproportionately on the Division's resources." CDAC Mem. at 2. Thus, the amendment requires even cases principally seeking equitable or declaratory relief to satisfy the applicable monetary threshold requirements. As the value of such cases "may not be readily apparent," the amendment prescribes that these claims "shall be measured by the *value of the object of the action*" meaning "the value of the suit's intended benefit, the value of the right being protected, or the value of the injury being averted, whichever is greatest." 22 NYCRR § 202.70(b).

The Advisory Council did not create this standard out of thin air. To the contrary, the "value of the object of the [action]" is the standard used by federal courts to determine if such actions meet the monetary threshold for diversity jurisdiction under 28 U.S.C. § 1332(a). *See Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 347 (1977) ("In actions seeking declaratory or injunctive relief, it is well established that the amount in controversy is measured by the value of the object of the litigation."). As the Advisory Council expressly noted, "*Hunt* and its progeny should provide practitioners and the courts with a well-developed body of case law about the methodology used to assess the litigation's monetary value." CDAC Mem. at 4.

In *Hunt*, the Washington State Apple Advertising Commission brought claims against the governor of North Carolina challenging the constitutionality of a statute and requesting declaratory and injunctive relief. See *Hunt*, 432 U.S. at 333. The statute "required that all apples sold or shipped into North Carolina"

be identified only by the "applicable federal grade." The Supreme Court held the "*object is the right* of the individual Washington apple growers and dealers to conduct their business affairs in the North Carolina market free from the interference of the challenged statute," while the "*value of that right* is measured by the losses that will follow from the statute's enforcement." The record demonstrated over $2 million in apple sales in North Carolina and that, as a result of the statute, apple growers and shippers lost business, incurred costs and changed marketing practices. Because it could not conclude "to a legal certainty" that the losses would not reach the jurisdictional requirement, the Supreme Court denied the motion to dismiss for lack of subject matter jurisdiction.

**For now, plaintiffs should be mindful to include allegations that will aid courts in determining the value of the consequences flowing from the action and all parties should keep this standard in mind when preparing an RJI.**

*Hunt*'s progeny continued to develop the standard. See, e.g., *Wash. National Insurance v. OBEX Group*, 958 F.3d 126, 131-32, 135 (2d Cir. 2020) (applying standard to a request to "enforce summonses requiring the respondents to produce evidence in an arbitration proceeding"); *Sasson v. Mann*, No. 21-922, 2022 WL 1580596, at *1, *3 (2d Cir. May 19, 2022) (applying standard to a request for declaratory relief regarding defendant's obligation to sell an interest in a LLC to plaintiffs); *Redenburg v. Midvale Indemnity*, 515 F. Supp. 3d 95, 101-02 (S.D.N.Y. 2021) (applying standard to a request for declaratory relief as to insurance coverage). For example, the amount-in-controversy is determined by the "monetary value of the benefit that would flow to the plaintiff if injunctive or declaratory relief were granted." See *American Standard v. Oakfabco,* 498 F. Supp. 2d 711, 717 (S.D.N.Y. 2007). Put differently, it is the value of the "injury being averted." See *Frontier Airlines v. AMCK Aviation Holdings Ireland*, 676 F. Supp. 3d 233, 244 (S.D.N.Y. 2023) (quoting *Correspondent Services v. First Equities Corp. of Florida*, 442 F.3d 767, 769 (2d Cir. 2006)).

While the imposition of a monetary threshold is new, it is not a tremendously high bar for plaintiffs to clear. So long as "the claim is apparently made in good faith," the amount of money in controversy—as alleged by the plaintiff—controls. See *Washington National Insurance,* 958 F.3d at 135 (quoting *A.F.A. Tours v. Whitchurch*, 937 F.2d 82, 87 (2d Cir. 1991)). Indeed, "it must appear *to a legal certainty* that the claim is really for less than the jurisdictional amount to justify dismissal," (quoting *Whitchurch*, 937 F.2d at 87). Courts will find the monetary threshold satisfied even if the "allegations leave grave doubt about the likelihood of a recovery of the requisite amount." See *Frontier Airlines,* 676 F. Supp. 3d at 244 (quoting *GW Holdings Group v. U.S. Highland,* 794 F. App'x 49, 51 (2d Cir. 2019)).

Caselaw following *Hunt* further demonstrates the nuances in determining the value of declaratory or equitable relief through the

plaintiff's eyes. In *Pyskaty v. Wide World of Cars,* 856 F.3d 216 (2d Cir. 2017), the U.S. Court of Appeals for the Second Circuit explained the "value of the object" standard in contract disputes seeking equitable remedies. The plaintiff brought a breach of warranties claim against defendants for selling her a vehicle with an allegedly incurable defect. As an alternative to damages (which fell below the monetary threshold), plaintiff also sought the equitable remedy of recission. The district court dismissed for lack of subject matter jurisdiction because the value of the defective vehicle failed to meet the amount-in-controversy requirement. The Second Circuit reversed, explaining that in a claim for recission, "the contract's entire value, without offset, is the amount in controversy," (citing *Rosen v. Chrysler*, 205 F.3d 918, 921 (6th Cir. 2000)). Therefore, the "total cash price" of the vehicle or the "amount payable under the contract to be rescinded" should be considered. *Pyskaty* thus exemplifies how the value of the requested relief is determined through the lens of the plaintiff.

Although federal caselaw focuses on the plaintiff's perspective, "*any party* may seek assignment of a case to the Commercial Division by filing a Request for Judicial Intervention (RJI)" and a "Commercial Division RJI Addendum" within 90 days following service of the complaint. 22 NYCRR § 202.70(d) (emphasis added). Likewise, if an RJI is filed but the case is not designated as commercial, "any other party may apply by letter application" to the administrative judge to transfer the case into the Commercial Division. Therefore, all parties requesting Commercial Division assignment of claims seeking declaratory or equitable relief ought to find guidance in *Hunt* and its progeny.

While the Advisory Council identified *Hunt* and its progeny as a guide for practitioners, CDAC Mem. at 4, Commercial Division Justices may embrace their own interpretations. For now, plaintiffs should be mindful to include allegations that will aid courts in determining the value of the consequences flowing from the action and all parties should keep this standard in mind when preparing an RJI. Regardless of the ultimate standard implemented by the Commercial Division, it is clear that the Commercial Division continues to focus its attention on complex commercial disputes that require the Commercial Division's expertise and resources.

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