

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

Nos. 06-12566 and 06-13714

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APRIL 30, 2007 THOMAS K. KAHN CLERK

D. C. Docket No. 03-03757 CV-CAP-1

999 PEACHTREE PLAZA, L.P.,

Plaintiff-Appellee,

versus

ORIX CAPITAL MARKETS, LLC,
as the Master and Special Servicer
for Wells Fargo Bank Minnesota, NA
(f/k/a Norwest Bank Minnesota, NA),
Trustee for the Registered Holders of
First Union-Lehman Brothers-Bank of
America Commercial Mortgage Trust,

Defendant-Appellant.

Appeals from the United States District Court
for the Northern District of Georgia

(April 30, 2007)

Before DUBINA and BLACK, Circuit Judges, and LIMBAUGH,* District Judge.

PER CURIAM:

After reviewing the record, reading the parties' briefs and having the benefit of oral argument, we conclude that the district court properly found that Orix Capital Markets, LLC's acceptance of 999 Peachtree Plaza, L.P.'s cure terminated Orix Capital's right to seek default interest on the original default as well as the alleged second default. Additionally, we conclude the district court did not abuse its discretion in declining to award attorney's fees and costs to Orix Capital. Accordingly, we affirm the district court's entry of partial summary judgment in favor of Peachtree Plaza and affirm the district court's order denying Orix Capital's post-judgment motion for attorney's fees.

AFFIRMED.

*Honorable Stephen N. Limbaugh, United States District Judge for the Eastern District of Missouri, sitting by designation.