

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

PRESENT: HON. DEBORAH A. KAPLAN

Administrative Judge

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LANGE CAMPBELL, INDIVIDUALLY AND ON BEHALF OF
ALL OTHER PERSONS SIMILARLY SITUATED,

INDEX NO. 160513/2018

Plaintiff,

- v -

NEW YORK BOILER, INC, RICHARD BERGER, DONALD
BERGER

**ADMINISTRATIVE
ORDER**

Defendant.
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By letter dated February 8, 2019, David E. Potter, Esq., counsel for defendants, requests that this action be assigned to the Commercial Division pursuant to Uniform Rule 202.70. No response to counsel's letter has been filed.

This action was commenced on November 13, 2018 and defendants were served on or about November 29, 2018. On January 29, 2019, plaintiff's counsel filed a Request for Judicial Intervention and a general addendum. Since no Commercial Division addendum was filed, the case was assigned to a non-commercial part (Hon. Franc Perry). On February 8, 2019, counsel for defendant filed the instant letter application.

The underlying action is a putative class action brought on behalf of individuals who furnished labor to defendants on various New York City Housing Authority and other public work projects in New York. Plaintiffs seek to recover unpaid prevailing wages, supplemental benefits, as well as overtime compensation which they assert they are statutorily and contractually entitled to receive for their services performed at the Public Works Projects.

In support of this application, defendants' counsel states:


This action was commenced less than 90 days ago, on November 13, 2018 Plaintiff filed an RJL on January 29, 2019 and selected "Other: Contract – other." . . . This case involves claims which comply with Section 202.70(b), i.e. breach of contract or fiduciary duty, fraud, misrepresentation, business tort, or statutory and/or common law

violation where the breach or violation is alleged to arise out of business dealings.

Although this application may be timely, actions to recover unpaid prevailing wages and related compensation under the Labor Law are not considered the sort of complex business disputes that belong in the Commercial Division.

Accordingly, the request for assignment to the Commercial Division is denied.

DATE: 3/8/19



Hon. Deborah A. Kaplan
Administrative Judge
Supreme Court, New York County
Civil Branch