

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

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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OMNI CONTRACTING COMPANY, INC.,

Plaintiff,

- v -

INDEX NO. 603811/2008

THE CITY OF NEW YORK, NEW YORK CITY  
DEPARTMENT OF DESIGN AND CONSTRUCTION  
(Contract No. 20020009141, Project No. LCN005NEW),  
and PMS CONSTRUCTION MANAGEMENT CORP.,

Defendants.

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Administrative Order:

By letter dated April 12, 2010, counsel for defendant PMS Construction Management Corp. applies for a transfer of this action from City I.A.S. Part 5 (Jaffe, J.) to the Commercial Division pursuant to Uniform Rule 202.70. While plaintiff's counsel consents to a transfer, by letter dated April 14, 2010, The City of New York opposes.

The City of New York filed a Request for Judicial Intervention (RJI) on January 8, 2010 in connection with its motion to dismiss the complaint. Corporation counsel did not designate the case as a commercial matter, rather the box for "Other Matters - City Contract" was chosen. The action was thus assigned to a City part.

Uniform Rule 202.70(e) places a 10-day time limit on these applications, measured from the receipt of a copy of the RJI, and the time limit is strictly construed. The request for a transfer is, therefore, denied as untimely.

Dated: April 15, 2010

ENTER: Sherry Klein Heitler, A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION