

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

**PRESENT: Hon. Jacqueline Silbermann
 Administrative Order**

MASTEC NORTH AMERICA, INC.,

Plaintiff,

- v -

INDEX NO. 601687/2005

**CONSOLIDATED EDISON, INC., CONSOLIDATED
EDISON COMPANY OF NEW YORK, INC., CON
EDISON COMMUNICATIONS, INC., AND CON
EDISON COMMUNICATIONS, LLC,**

Defendants.

Administrative Order:

By letter dated June 6th, counsel for defendants has applied for a transfer of this action from I.A.S. Part 57 (Friedman, J.) to the Commercial Division pursuant to Uniform Rule 202.70. The Court has not received an objection to defendants' application.

Defendants filed a Request for Judicial Intervention (RJI) on May 1, 2006, with their request for a preliminary conference. Defendants checked that the matter was "Other Commercial," and allegedly filed their Statement in Support of Request for Assignment to the Commercial Division with the RJI. However, the action was assigned to a Non-Commercial part on May 4, 2006, as indicated in the Court's Case Information System, as well as Court Alert.

Defendants' counsel contends that the action should be reassigned to the Commercial Division, because it seeks damages in excess of \$34,000,000, and involves claims of fraud, business tort, and foreclosure of a mechanic lien. Although, this is an action which would qualify for a transfer to the Commercial Division, defendants' application for such a transfer is untimely pursuant to Uniform Rule 202.70(e).

Uniform Rule 202.70(e) places a 10-day time limit on these applications, measured from the receipt of a copy of the RJI. The RJI was filed by defendants on May 1, 2006, over a month ago. Since defendants marked "Other Commercial" on the RJI, they had 10 days from time that the action was assigned to a Non-Commercial part to make this application. Uniform Rule 202.70 (f) (2).

Defendants fail to address the timeliness issue in their application. Defendants make no indication to the Court as to whether their application is timely, and do not acknowledge when they received notice of the assignment to a Non-Commercial part for the Court to make such a determination. Accordingly, for these reasons, the request is denied.

Dated: June 14, 2006

ENTER: _____, A.J.

HON. JACQUELINE W. SILBERMANN

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION