

SCHWARTZ, PONTERIO & LEVENSON, PLLC

ATTORNEYS AT LAW

134 West 29th Street – Suite 1006

New York, New York 10001-5304

Tel. No.: (212) 714-1200

Fax No.: (212) 714-1264

E-Mail: mschwartz@splaw.us

February 6, 2019

BY E-FILING

Honorable James E. d'Auguste
Supreme Court of the State of New York
111 Centre Street, Room 934
New York, New York 10013

**RE: JERRY CADIGAN, et al. v. LIBERTY HELICOPTERS, INC., et al.
INDEX NO.: 152286/2018**

Dear Judge d'Auguste:

We represent Plaintiffs in the above matter. We are in receipt of the letter (Docket No. 105) whereby Defendant Apical Industries has agreed to proceed with a JHO for purposes of overseeing the Plaintiffs' jurisdictional discovery.

While Plaintiffs join in consenting to the appointment of a JHO, we must respectfully object to Defendant Apical's request that Your Honor direct the JHO to pre-judge any of our jurisdictional discovery. It was Your Honor's stated intent that it would be up to the JHO to review our proposed discovery requests "one-by-one" to determine appropriate limitations, if any, and that is the very purpose of the Court's assignment. Given what is at stake and the claim by Apical to have had "no contacts" with the State of New York, we have fashioned discovery which we submit is designed to reveal all the relevant and material facts.

As to Defendant Apical's concern about our filing of the Second Amended Complaint, it is Plaintiffs' position that Apical need not re-file its Motion to Dismiss. None of the allegations as against Defendant Apical are revised and the primary purpose of the Second Amended Complaint is to add two (2) additional Defendants.

Honorable James E. d'Auguste
February 6, 2019
Page 2

Finally, we join in Defendant Apical's request for guidance following completion of this jurisdictional discovery. We would respectfully request an opportunity to make supplemental evidentiary submissions and to argue the dismissal motion before Your Honor once we have the additional jurisdictional facts.

We thank Your Honor for your consideration of these matters, and best wishes.

Respectfully yours,



Matthew F. Schwartz

cc: All Counsel (by ECF)