

# EXHIBIT B



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February 4, 2019

**BY EMAIL**

Hon. James E. d'Auguste  
Supreme Court State of New York, New York County  
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**

Hon. Sir:

As your Honor may recall, we are attorneys for Defendant Apical Industries, Inc. (d/b/a DART Aerospace) in the captioned matter. We write in furtherance of our discussion with the Court during the oral argument on January 22, 2019 of Apical's motion to dismiss for lack of personal jurisdiction.

At that time, and while discussing Plaintiffs' cross-motion to obtain jurisdictional discovery, your Honor suggested that the matter could be sent to a Judicial Hearing Office ("JHO") to fashion and oversee limited discovery as to jurisdiction and that you would hold the motion to dismiss in abeyance pending completion of that discovery. You asked that we report back to the Court today.

We have discussed this suggestion with our client and are amenable to moving forward. To this end, we have the following concerns that we would like to bring to the Court's attention so that there are no misunderstandings on our part.

First, should your Honor wish to proceed with the referral to a JHO, we ask that the Order advise the JHO that the discovery be limited and truly related to the issue of jurisdiction. In this regard, and as we noted at oral argument, the "jurisdictional" discovery previously served by Plaintiffs consisted of over 120 Requests for Production of Documents, including such items as copies of Complaints brought against Apical anywhere in the United States.

Next, since the oral argument Plaintiffs have filed a Stipulation with the Court allowing them to add two additional defendants to the litigation. This addition would be covered in a Second Amended Complaint. Apical's motion, of course, is directed to the First Amended Complaint. Legal research as to the issue of whether we would need to re-file Apical's motion so as to direct it to the Second Amended Complaint shows a split in authority. Generally, however, Courts agree that if the allegations in the newly amended Complaint do not change the circumstances of the



Hon. James E. d'Auguste  
February 4, 2019  
Page 2

pending motion, then a new motion does not need to be filed. Because the allegations in Plaintiffs' Second Amended Complaint merely seek to bring in two new parties to the litigation, and do not change any allegations against Apical, we respectfully submit that we do not need to re-file the already pending and argued motion. In this regard, and for the sake of good order, we would appreciate the Court's instructions accordingly.

Lastly, we did not discuss procedures to follow once the jurisdictional discovery has been completed. So, for example, should the parties file supplemental memoranda and, if so, should that memoranda be limited to newly discovered facts, or should it also be accompanied by additional legal arguments? And, lastly, should we place the motion back on the Court's calendar, or merely advise the Court that we have completed the jurisdictional discovery and submit our additional filings? We suppose that some of these issues can be left to the JHO, but thought it prudent to obtain the Court's views on this first.

Thank you for your consideration and we look forward to hearing further from the Court.

Respectfully submitted,

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