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February 21, 2019

BY E-FILING

Hon. Deborah A. Kaplan
Administrative Justice
Supreme Court of the State of New York
60 Centre Street, Room 609
New York, New York 10007

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

Dear Judge Kaplan:

We represent Plaintiffs in the above matter. We are in receipt of the letter from counsel for Defendant Apical Industries (Docket No. 111) in which Apical requests that Your Honor's Order of February 15, 2019 be vacated.

We respectfully submit that the Order is precisely in accord with Judge d'Auguste's directions to the parties at the hearing of January 22, 2019. At the hearing, when Apical's counsel objected to Plaintiffs' discovery requests ["They're asking for everything.'], Judge d'Auguste stated that he would appoint a JHO to review the discovery requests:

Which is one of the reasons why my thought process is to have you sit down, with one of the Judges, to literally go over - - they will put down and say, "Yes, no, yes, no" and make a decision as to that.

So, you don't have to have a situation where you're - - clearly, you folks are going to want more and you folks are going to want to give up almost nothing. And I understand that. But, at least then, you can have - - the Judge will say, "yes" or "no" to the stuff.

(Transcript of Proceedings of February 22, 2019 at page 41).

It is Plaintiffs' position that the discovery propounded was already specifically tailored and limited to discovery relating to the personal jurisdiction issue.

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Judge d'Auguste clearly indicated that the JHO would be assigned "to handle the jurisdictional discovery..." (Transcript, p. 41) and at no point during the discussion did the Court state that the discovery would be of a limited nature. Rather, as noted above, the Court advised that the JHO would decide on the propriety of the discovery requests.

For these reasons, Plaintiffs respectfully request that the Court deny Apical's request to vacate the Order of February 15, 2019 in that the intent of the appointment to the JHO for the discovery dispute is precisely correct.

Respectfully submitted,



Matthew F. Schwartz

cc: All Counsel (by ECF)