

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

PRESENT: HON. JAMES E. d'AUGUSTE  
*Justice*

PART 55

Index Number : 152286/2018  
CADIGAN, JERRY  
vs.  
LIBERTY HELICOPTERS, INC.  
SEQUENCE NUMBER : 003  
OPEN COMMISSION/ ISSUANCE OF LETTER ROGATO

INDEX NO. \_\_\_\_\_

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. \_\_\_\_\_

The following papers, numbered 1 to \_\_\_\_\_, were read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_ | No(s). \_\_\_\_\_

Answering Affidavits — Exhibits \_\_\_\_\_ | No(s). \_\_\_\_\_

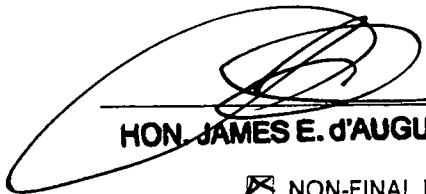
Replying Affidavits \_\_\_\_\_ | No(s). \_\_\_\_\_

Upon the foregoing papers, it is ordered that this motion is

**DECIDED IN ACCORDANCE WITH  
ACCOMPANYING DECISION/ORDER**

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE  
FOR THE FOLLOWING REASON(S):

Dated: 9/5/2018

  
\_\_\_\_\_  
HON. JAMES E. d'AUGUSTE, J.S.C.

- 1. CHECK ONE: .....  CASE DISPOSED  NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: ..... MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
- 3. CHECK IF APPROPRIATE: .....  SETTLE ORDER  SUBMIT ORDER
- DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE

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

JERRY CADIGAN, and NANCY CATON  
CADIGAN, as the Proposed Administrators of  
the Estate of TREVOR NORRIS CADIGAN,  
deceased,

Plaintiffs,

-against-

LIBERTY HELICOPTERS, INC., a New York  
Corporation; NYONAIR, LLC, a New Jersey  
Limited Liability Company; MERIDIAN  
CONSULTING I CORPORATION, INC., a  
Delaware Corporation; RICHARD ZEMKE  
VANCE, a Connecticut resident; AIRBUS  
HELICOPTERS, S.A.S., a French Corporation;  
AIRBUS HELICOPTERS, INC.; a Delaware  
Corporation; and APICAL INDUSTRIES, INC.  
d/b/a DART AEROSPACE, a California  
Corporation;

Defendants.

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**COMMISSION TO TAKE  
DEPOSITION UPON ORAL  
EXAMINATION**

**THE PEOPLE OF THE STATE OF NEW YORK**

**TO:** Katherine Ayre, Esq.  
Borden Ladner Gervais LLP  
Bay Adelaide Centre, East Tower  
22 Adelaide St W  
Toronto, ON, Canada M5H 4E3

**KNOW YOU**, that we, with full faith in your prudence and competence, have appointed  
you Commissioner, and by these presents do authorize you to issue and direct the service of a  
subpoena duces tecum upon:

Document Custodian of EuroTec Canada, Limited  
12 Innovation Drive Unit W  
Dundas, Ontario L9H 7P3 Canada

EuroTec Canada, Limited as a non-party to the above-entitled action, pending in our Supreme Court of the State of New York, New York County, between JERRY CADIGAN, and NANCY CATON CADIGAN, as the Proposed Administrators of the Estate of TREVOR NORRIS CADIGAN, deceased, as plaintiffs, against LIBERTY HELICOPTERS, INC., a New York Corporation; NYONAIR, LLC, a New Jersey Limited Liability Company; MERIDIAN CONSULTING I CORPORATION, INC., a Delaware Corporation; RICHARD ZEMKE VANCE, a Connecticut resident; AIRBUS HELICOPTERS, S.A.S., a French Corporation; AIRBUS HELICOPTERS, INC.; a Delaware Corporation; and APICAL INDUSTRIES, INC. d/b/a DART AEROSPACE, a California Corporation, as the Defendants, under oath and upon oral examination.

**FURTHER, WE COMMAND YOU**, that at a certain time and place to be appointed by the Superior Court of Ontario, you issue and direct the service of a subpoena duces tecum to produce documents, as set forth herein to counsel for the Defendants, LIBERTY HELICOPTERS, INC; MERIDIAN CONSULTING I CORPORATION, INC.; and RICHARD ZEMKE VANCE (collectively, "Liberty Helicopters") unless necessary to distinguish) under oath or on affirmation touching upon the matters in controversy in the above-referenced action and that the transcript of the depositions be reduced to writing, subscribed to by the witnesses, and certified to be correct, and attached to this Commission with any exhibits, and that you return the same to the Clerk of the Supreme Court, New York County, by certified or registered mail with all convenient speed.

WITNESS Hon. JAMES E. d'AUGUSTE, J.S.C, one of the Justices of said Court, at Part 55,

5<sup>th</sup> day of September, 2018

By the Court:

Let the within Commission be returned through the Post Office by registered or certified mail, directed to Clerk of the Supreme Court, New York County, 60 Centre Street, New York, New York 10007 with copies to Lewis Brisbois Bisgaard & Smith, LLP counsel for Liberty Helicopters., 77 Water Street, 21<sup>st</sup> Floor, New York, New York 10005.

Dated: **SEP 05 2018**  
New York, New York

  
HON. JAMES E. d'AUGUSTE  


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

JERRY CADIGAN, and NANCY CATON  
CADIGAN, as the Proposed Administrators of  
the Estate of TREVOR NORRIS CADIGAN,  
deceased,

Plaintiffs,

-against-

LIBERTY HELICOPTERS, INC., a New York  
Corporation; NYONAIR, LLC, a New Jersey  
Limited Liability Company; MERIDIAN  
CONSULTING I CORPORATION, INC., a  
Delaware Corporation; RICHARD ZEMKE  
VANCE, a Connecticut resident; AIRBUS  
HELICOPTERS, S.A.S., a French Corporation;  
AIRBUS HELICOPTERS, INC.; a Delaware  
Corporation; and APICAL INDUSTRIES, INC.  
d/b/a DART AEROSPACE, a California  
Corporation;

Defendants.

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**REQUEST FOR  
INTERNATIONAL JUDICIAL  
ASSISTANCE  
(LETTER ROGATORY)**

The Supreme Court of the State of New York, County of New York presents its compliments to the Superior Court of the Province of Ontario, Canada, and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in the above-captioned matter. The subpoena duces tecum seeks the production of certain limited, specific categories of documents essential to the defense of the Defendants seeking international judicial assistance herein, with said documents believed to be in the possession of non-party EuroTec Canada, Limited.

This Court requests the assistance described herein as necessary in the interests of justice. The assistance requested is that the Superior Court of the Province of Ontario, Canada compel

the party identified herein to effectuate the production of documents in response to the subpoena duces tecum submitted herewith:

Document Custodian of EuroTec Canada, Limited  
12 Innovation Drive Unit W  
Dundas, Ontario L9H 7P3 Canada

The Defendants, LIBERTY HELICOPTERS, INC.; MERIDIAN CONSULTING I CORPORATION, INC.; and RICHARD ZEMKE VANCE have identified a Commissioner to facilitate the execution of the foregoing subpoena:

Katherine Ayre, Esq.  
Borden Ladner Gervais LLP  
Bay Adelaide Centre, East Tower  
22 Adelaide St W  
Toronto, ON, Canada M5H 4E3

The Court-Ordered Commission is also enclosed herewith.

The underlying litigation, filed in the Supreme Court of the State of New York, County of New York is, inter alia, a wrongful death, negligence and products liability action commenced by Plaintiffs JERRY CADIGAN, and NANCY CATON CADIGAN, as the Proposed Administrators of the Estate of TREVOR NORRIS CADIGAN, deceased, as against LIBERTY HELICOPTERS, INC.; MERIDIAN CONSULTING I CORPORATION, INC.; and RICHARD ZEMKE VANCE and other such Defendants as set forth in the caption, supra.

The matter arises from a helicopter accident on March 11, 2018 in the East River, New York, New York. The helicopter, an Airbus Eurocopter AS350B2 model registered N350LH, sustained a loss of power event which necessitated a water landing in the East River. Of the six persons on board, five perished, including plaintiffs' decedent, Trevor Norris Cadigan.

Prior to impact with the water, pilot Richard Vance activated the helicopter's emergency float system, designed to keep the helicopter afloat in the event of a forced landing on water,

otherwise known as a ditching. After impact with the water, it became apparent that the right-hand side floats did not properly deploy, causing the accident helicopter to immediately list to the right, fill with water and capsize, inverted in the East River, with all six occupants still in the cabin.

Defendant Liberty Helicopters, Inc. has shown this Court that EuroTec Canada, Limited sold an Emergency Float Kit, model number 20326-700, manufactured by co-defendant Apical Industries d/b/a Dart Aerospace, Inc., to Liberty Helicopters in 2013. Upon information and belief, EuroTec Canada, Limited installed said system on the accident helicopter N350LH. Liberty Helicopter has shown that the testimony of the aforementioned witnesses is essential to the defense of this action. The testimony and documents possessed by those witnesses, residents of Canada, are sought by way of this Letter Rogatory.

This Court respectfully offers to extend reciprocal courtesies to Superior Court of the Province of Ontario in exchange for its assistance in this undertaking. The Defendants, LIBERTY HELICOPTERS, INC.; MERIDIAN CONSULTING I CORPORATION, INC.; and RICHARD ZEMKE VANCE have expressed their willingness to reimburse this Honorable Court for any and all costs associated herewith.

Dated: **SEP. 05 2018**  
New York, New York



*James E. d'Auguste*  
HON. JAMES E. d'AUGUSTE, J.S.C.