

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,

Index No.: 152286/2018

Plaintiffs,

-against-

LIBERTY HELICOPTERS, INC., a New York
Corporation; NYONAIR LLC, a New Jersey Limited
Liability Company; FLYNYON LLC, a New Jersey
Limited Liability Company; MERIDIAN
CONSULTING I COPORATION, 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,

**AFFIRMATION OF EUGENE
MASSAMILLO IN SUPPORT OF
DEFENDANT APICAL
INDUSTRIES, INC.'S MOTION TO
DISMISS FOR LACK OF
PERSONAL JURISDICTION**

Defendants.

Eugene Massamillo, an attorney admitted to practice in the Courts of the State of New York, affirms the following under penalties of perjury:

1. I am a member of the law firm KAPLAN, MASSAMILLO & ANDREWS, LLC, attorneys for the Defendant Apical Industries, Inc. d/b/a DART Aerospace (hereinafter "Apical"), and as such I am fully familiar with all of the pleadings, facts and circumstances in this matter.

2. This Affirmation is respectfully submitted in support of Defendant Apical's Motion for an Order dismissing Plaintiff's First Amended Complaint, pursuant to CPLR

3211(a)(8), and seeks dismissal of the claims directed at Defendant Apical set forth therein, and for such other and further relief as the Court deems just and proper.

2. On March 28, 2018, Plaintiffs filed the First Amended Complaint. A true and correct copy of the Supplemental Summons and First Amended Complaint, filed March 28, 2018, is attached hereto as Exhibit A.

3. The Supplemental Summons and First Amended Complaint were served on Defendant Apical on May 4, 2018, at its office in California. A true and correct copy of the Proof of Service, filed May 9, 2018, is attached hereto as Exhibit B.

4. As set forth in the Affidavit of Alain Madore, sworn June 18, 2018, and the Memorandum of Law, submitted herewith, this Court lacks personal jurisdiction over Defendant Apical, a nonresident, because its contacts with New York fall short of satisfying the rigorous requirements of CPLR 302, the Long Arm Statute and Constitutional Due Process. Thus, the claims against Apical asserted in the Complaint must be dismissed based on lack of personal jurisdiction.

5. No previous application has been made for the relief requested herein.

6. I hereby certify pursuant to 22 NYCRR 130-1.1a that to the best of my knowledge, information and belief as the attorney for Defendant Apical herein, that the submission of the within motion, supporting papers, and contentions herein are not frivolous as defined in 22 NYCRR 130-1.1(c).

WHEREFORE, Defendant Apical Industries, Inc. d/b/a DART Aerospace respectfully requests that this Court issue an Order dismissing Plaintiff's First Amended Complaint pursuant to CPLR 3211(a)(8), insofar as it asserts claims against this Defendant, and for such other and further relief as the Court deems just and proper.

Dated: New York, New York
June 18, 2018

By: *Eugene Massamillo*
Eugene Massamillo