

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

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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; FLYNYON 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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Index No. 152286/2018

**AFFIRMATION OF  
MATTHEW F. SCHWARTZ**

MATTHEW F. SCHWARTZ, an attorney duly admitted to practice law in the State of New York, affirms under the penalties of perjury the truth of the following facts:

1. I am an attorney duly admitted to practice law in the State of New York and a member of the law firm of Schwartz, Ponterio & Levenson, PLLC. Together with Robb & Robb LLC, we are attorneys of record for Plaintiffs in this lawsuit.

2. I respectfully submit this affirmation, with the annexed Exhibits A-I and accompanying Memorandum of Law, in support of Plaintiffs' motion for an order, pursuant to CPLR § 306-b extending their time to serve defendants for good cause and in the interests of justice, and granting such other and further relief as the Court deems just and proper.

3. I make this Affirmation to explain the procedural history of the case and to put before the Court the exhibits relied on in the Memorandum of Law.

### **Background**

4. This lawsuit arises out of a fatal crash on March 11, 2018 in New York City involving a Eurocopter AS350 B2 helicopter. The helicopter lost altitude during a sightseeing tour and descended into the East River. The helicopter rolled to its side into the waters and sunk. The pilot, who was not wearing a harness, only manufacturer-installed lap and shoulder belts, escaped from the helicopter but all five passengers who wore the harnesses in addition to the safety belts were unable to escape the helicopter and drowned.

5. One of those passengers was Trevor Norris Cadigan and Plaintiffs are his parents and the Co-Administrators of his Estate. They have brought this lawsuit against the owner and operator of the helicopter, helicopter tour companies, the pilot, and the manufacturers of the helicopter and the emergency flotation devices.

### **Commencement of the Action and Service on the Defendants**

6. The Summons and Complaint were electronically filed on March 13, 2018. A copy of the Summons and Complaint is annexed as Exhibit A.

7. Plaintiffs filed a Supplemental Summons and First Amended Complaint on March 28, 2018 naming additional defendants. A copy of the Supplemental Summons and First Amended Complaint is annexed as Exhibit B.

8. Plaintiffs have served all of the domestic defendants and have filed the requisite proof of service.

9. A copy of the proof of service for defendant Liberty Helicopters, Inc. is annexed as Exhibit C.

10. A copy of the proof of service for defendants NYONAIR LLC and FLYNYON LLC is annexed as Exhibit D.

11. A copy of the proof of service for defendant Meridian Consulting I Corporation, Inc. is annexed as Exhibit E.

12. A copy of the proof of service for defendant Apical Industries, Inc. d/b/a Dart Aerospace is annexed as Exhibit F.

13. A copy of the proof of service for defendant Airbus Helicopters, Inc. is annexed as Exhibit G.

14. A copy of the proof of service for defendant Richard Zemke Vance is annexed as Exhibit H.

#### **Service on Airbus Helicopters, S.A.S.**

15. Defendant Airbus Helicopters, S.A.S. is the manufacturer of the helicopter involved in the crash. Amended Compl., ¶ 29. It is a French company so service is being made in accordance with the Hague Convention. The Hague Convention requires that the pleadings be translated and delivered to the Central Authority in France from which service is arranged on the defendant.

16. Plaintiffs have completed the first two steps and a translation of the pleadings were sent to the relevant French Central Authority on May 14, 2018.

17. We estimate that, once delivered to the central authority, it will take 12-16 weeks to complete service.

18. We believe Airbus Helicopters, S.A.S. has notice of the case because its foreign counterpart, Airbus Helicopters, Inc., has been served and has requested, and we have agreed, that its time to answer be extended until a time to be determined by agreement once the French company is served. A copy of our confirming correspondence with counsel for Airbus Helicopters, Inc. is annexed as Exhibit I.

**Conclusion**

19. For the reasons discussed in this motion, I respectfully request that this Court issue an Order granting Plaintiffs' motion for an order, pursuant to CPLR § 306-b, extending their time to serve Defendant Airbus Helicopters, S.A.S. for good cause and in the interests of justice, and granting such other and further relief as the Court deems just and proper.

Dated: New York, New York

July 11, 2018



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MATTHEW F. SCHWARTZ