George H. Barber (State Bar No. 01705650)
gbarber@krcl.com
Robert N. LeMay (State Bar No. 12188750)
rlemay@krcl.com
Kane Russell Coleman & Logan PC
1601 Elm Street, Ste. 3700
Dallas, Texas 75201
Telephone: (214) 777-4264

and

Martin Flumenbaum (New York Bar No. 1143387)
mflumenbaum@paulweiss.com
Roberta A. Kaplan (New York Bar. No. 2507093)
rkaplan@paulweiss.com
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000

COUNSEL FOR PLAINTIFF ECN CAPITAL (AVIATION) CORP.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	**Chapter 11**
CHC GROUP LTD., *et al.*,	**Case No. 16-31854(BJH)**
Debtor,	**(Jointly Administered)**
ECN CAPITAL (AVIATION) CORP.,	**Adversary No. 16-03151-bjh**
Plaintiff,	
v.	
AIRBUS HELICOPTERS (SAS),	
Defendant.	

PLAINTIFF'S EX-PARTE MOTION FOR ISSUANCE OF SUPPLEMENTAL SUMMONS

Plaintiff ECN Capital (Aviation) Corp. ("ECN Capital" or "Plaintiff"), by and through its undersigned attorneys, files this *Plaintiff's Ex Parte Motion For Issuance of Supplemental Summons* (the "Motion"), and hereby respectfully would show the Court as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this adversary proceeding under 28 U.S.C. §§ 157, 1334, and 1367.

2. This adversary proceeding is related to cases filed by CHC Group Ltd. ("CHC Group") and certain of its affiliates (together with CHC Group, collectively the "CHC Debtors") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), which are being jointly administered in this Court under the caption *In re CHC Group Ltd., et al.*, No. 16-31854 (BJH) (the "CHC Bankruptcy Cases").

3. Venue of this proceeding is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(2) and 1409(a) or, in the alternative, 28 U.S.C. § 1391(b)(3).

4. This adversary proceeding is a non-core proceeding.

5. The statutory predicates for the relief requested below are 11 U.S.C. § 105(a) and Federal Rule of Bankruptcy Procedure 7012(a).

BACKGROUND

6. On November 17, 2016, Plaintiff ECN Capital filed the Complaint in this adversary proceeding against Defendant Airbus Helicopters (SAS) ("Airbus" or "Defendant"). (Adversary No. 16-03151-bjh Dkt. No. 1.)

7. On information and belief, Defendant Airbus is a *société par actions simplifiée* organized under the laws of France with its principal place of business in Marignane, France. Airbus designs, manufacturers, markets, and sells aircraft, which it markets and services around the world and throughout the United States, including in Texas.

8. Airbus has appeared in the CHC Bankruptcy Cases pending in this Court to which this adversary proceeding is related. (*In re CHC Group Ltd., et al.*, No. 16-31854

(BJH) Dkt. Nos. 227, 228, 229, 230, 334, 335, 339, 351 and 352.) Airbus has filed proofs of claim, filed briefing in connection with discovery motions, and participated as a member of the Official Unsecured Creditors' Committee in the CHC Bankruptcy Cases. (*In re CHC Group Ltd., et al.*, No. 16-31854 (BJH) Dkt. Nos. 115, 137, 862.)

9. In documents filed with this Court in the CHC Bankruptcy Cases regarding its participation as a member of the Official Unsecured Creditors' Committee, Airbus listed as its representative Kevin C. Cabaniss, Vice President & General Counsel, at 2701 Forum Drive, Grand Prairie, Texas, 75052. (*In re CHC Group Ltd., et al.*, No. 16-31854 (BJH) Dkt. No. 115.) On information and belief, Mr. Cabaniss also has been designated as Airbus's registered agent, and he has been designated as the registered agent of Airbus affiliates headquartered in this District.

10. On November 18, 2016, the Court issued a *Summons in an Adversary Proceeding* (Adversary No. 16-03151-bjh Dkt. No. 3) (the "Summons"), which states: *"{If this summons and complaint is served in a foreign country}* Service of your answer must be made by the following date prescribed by the court N/A."

11. On November 18, 2016, ECN Capital served the Complaint and Summons upon Mr. Cabaniss at 2701 Forum Drive, Grand Prairie, Texas, 75052, thus effecting service of the Complaint and Summons upon Airbus in accordance with Bankruptcy Rule 7004. (Adversary No. 16-03151-bjh Dkt. Nos. 5 and 6.)

12. Upon information and belief, Defendant Airbus may also be served in France pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, art. 5, Nov. 15, 1965, 20 U.S.T. 361 (the "Hague Convention").

13. Upon information and belief, service of a summons and complaint in France through the channels authorized by the Hague Convention requires that the summons state a time frame in which the defendant must answer or otherwise respond to the complaint in the event that the summons and complaint is served only outside of the United States.

RELIEF REQUESTED

14. ECN Capital respectfully requests that the Court authorize and direct issuance of a supplemental summons substantially similar to the proposed supplemental summons attached as Exhibit A to this Motion, which contains a provision stating a time frame in which Defendant Airbus must answer or otherwise respond to the Complaint in the event that Defendant Airbus is served only outside of the United States.

BASIS FOR THE RELIEF REQUESTED

15. The Bankruptcy Code and Rules give the Court discretion to fashion the necessary relief. Section 105(a) of the Bankruptcy Code grants the Court broad authority and discretion to take such actions and implement such procedures as necessary to enforce the provisions of the Bankruptcy Code or the Rules. Section 105 provides that:

> The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

16. This Court has granted a similar ex parte motion in an adversary proceeding requesting the issuance of a summons with supplemental language facilitating service via the Hague Convention. *See Mims* v. *Ayr Prop. Dev. AD (In re Ayr Logistics Ltd. Inc.)*, Adv. No. 16-03140 (Bankr. N.D. Tex. Filed Oct. 11, 2016), Dkt. Nos. 9 and 10. Other courts have

afforded similar relief in granting requests for the issuance of a summons with supplemental language facilitating service via the Hague Convention. *See, e.g., In re M. Slavin & Sons, Ltd*., Case No. 11–10589 (REG) (Bankr. S.D.N.Y. filed Mar. 26, 2013), Dkt. No. 490. Additionally, courts have recognized that foreign corporations with representatives in the United States may be served both within the United States and outside the United States via the Hague Convention. *See, e.g., Highway Equip. Co.* v. *Alexander Howden Ltd. (In re Highway Equip. Co.)*, 120 B.R. 910, 915–16 (Bankr. S.D. Ohio 1990) (holding that the plaintiffs had effected "personal service upon the [defendant foreign corporation] within the United States [by mailing process to its agent], as well as in accordance with the requirements of the Hague convention").

17. Plaintiff ECN Capital submits that the relief sought in the Motion is reasonable and will allow for the efficient prosecution and resolution of this adversary proceeding.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ECN Capital respectfully requests that this Court grant this Motion, authorize and direct issuance of a supplemental summons substantially similar to the proposed supplemental summons attached hereto as Exhibit A, and grant such other and further relief, at law or in equity, as is just and proper.

Dated: November 30, 2016
Dallas, Texas

Respectfully submitted,

KANE RUSSELL COLEMAN & LOGAN PC

By: */s/ George H. Barber*
George H. Barber (State Bar No. 01705650)
Robert N. LeMay (State Bar No. 12188750)
3700 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201
Telephone: (214) 777-4264
Facsimile: (214) 777-4299
gbarber@krcl.com
rlemay@krcl.com

- and -

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

Martin Flumenbaum
(New York Bar No. 1143387)
(*pro hac vice* application pending)
Roberta A. Kaplan
(New York Bar. No. 2507093)
(*pro hac vice* application pending)
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000
Facsimile: (212) 757-3990
mflumenbaum@paulweiss.com
rkaplan@paulweiss.com

Counsel for Plaintiff
ECN Capital (Aviation) Corp.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion with Exhibit A was served on the Defendant and counsel for the Defendant at the addresses set forth below by First Class United States Mail, postage prepaid, and by FEDEX overnight delivery, on this 30th day of November, 2016.

Airbus Helicopters (SAS)
c/o Kevin Cabaniss
Airbus Helicopters, Inc.
2701 Forum Drive
Grand Prairie, TX 75052

Steven A. Rossum, Esq.
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street N.E.
Atlanta, GA 30309

Brian P. Hall, Esq.
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street N.E.
Atlanta, GA 30309

Heather H. Jobe, Esq.
Bell Nunnally & Martin LLP
3232 McKinney Ave., Suite 1400
Dallas, Texas 75204-2429

/s/ George H. Barber
George H. Barber

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In re:	)	
CHC GROUP LTD., *et al.*,	)	Case No.: 16-31854-bjh11
	)	Chapter No.: 11
Debtor,	)	
ECN CAPITAL (AVIATION) CORP.,	)	Adversary No.: 16-03151-bjh
Plaintiff,	)	
v.	)	
AIRBUS HELICOPTERS (SAS),	)	
Defendant.	)	

SUMMONS IN AN ADVERSARY PROCEEDING

To the above-named defendant:

You are hereby summoned and required to serve upon **George H. Barber**, Plaintiff's attorney, whose address is **Kane, Russell, Coleman & Logan, PC**
1601 Elm St., Suite 3700
Dallas, TX 75201, either a motion or an answer to the complaint which is now served upon you. If you elect to respond first by motion, as you may pursuant to Fed. R. Bankr. P. 7012, that governs the time within which your answer must be served. Otherwise, you are required to serve your answer upon Plaintiff's attorney within 30 days of the date of issuance of this summons by the clerk except that the United States or an office or agency thereof shall serve an answer to the complaint within 35 days after the date of issuance of the summons.

If you are not served with this summons within the United States, and are served with this summons only outside of the United States, you are required to submit a motion or answer to the clerk of the bankruptcy court within thirty (30) days from the date on which plaintiff files a certificate of service attesting to the execution of service upon you outside of the United States, which certificate of service shall be filed upon the court's docket in the above-captioned adversary proceeding within two (2) days of receipt.

The motion or answer served by you must be filed with this court before service or within a reasonable time after service. **IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS SUMMONS, JUDGMENT BY DEFAULT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT**.

DATED: 11/30/16

FOR THE COURT:
Jed G. Weintraub, Clerk of Court

by: _____

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	)	**Chapter 11**
	)	
CHC GROUP LTD., *et al.*,	)	**Case No. 16-31854(BJH)**
	)	
Debtor,	)	**(Jointly Administered)**
	)	
ECN CAPITAL (AVIATION) CORP.,	)	**Adversary No. 16-03151-bjh**
	)	
Plaintiff,	)	
v.	)	
	)	
AIRBUS HELICOPTERS (SAS),	)	
	)	
Defendant.	)	

ORDER GRANTING PLAINTIFF'S EX-PARTE MOTION FOR ISSUANCE OF SUPPLEMENTAL SUMMONS

Came on for consideration the Plaintiff's Ex Parte Motion for Issuance of Supplemental Summons (the "Motion") filed by counsel for Plaintiff, ECN Capital (Aviation)

Corp. The Court having reviewed the Motion and otherwise being fully informed, is of the opinion that the Motion should be GRANTED. Accordingly, it is therefore

ORDERED that the Motion is GRANTED; and it is further

ORDERED that the Court hereby authorizes and directs issuance of a supplemental summons substantially similar to the proposed supplemental summons attached to the Motion as Exhibit A.

End of Order