Docket #0062 Date Filed: 1/9/2017

BTXN 138 (rev. 03/15)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In Re: CHC Group Ltd.		§	
		§	Case No.: 16−31854−bjh11
	Debtor(s)	§	Chapter No.: 11
ECN Capital (Aviation) Corp.		§	
	Plaintiff(s)	§	Adversary No.: 16−03151−bjh
vs.		§	
Airbus Helicopters (SAS)		§	Civil Case No.:
	Defendant(s)	§	
		§	
ECN Capital (Aviation) Corp.		§	
	Plaintiff(s)	§	
vs.		§	
Airbus Helicopters (SAS)		§	
	Defendant(s)	§	
		§	
		§	

NOTICE OF TRANSMITTAL REGARDING WITHDRAWAL OF REFERENCE

I am transmitting:

- ☑ One copy of the Motion to Withdraw Reference (USDC Civil Action No. − DNC Case) **NOTE**: A Status Conference has been set for January 30, 2017 at 1:15PM, in Commerce Street, Room 1424 (Courtroom #2), 14th Floor, Dallas, Texas 75242 before U.S. Bankruptcy Judge Houser . The movant/plaintiff, respondent/defendant or other affected parties are required to attend the Status Conference.
- ☐ One copy of: _.

TO ALL ATTORNEYS: Fed.R.Bankr.P. 5011(a) A motion for withdrawal of a case or proceeding shall be heard by a district judge, [*implied*] that any responses or related papers be filed likewise.

DATED: 1/9/17

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

by: /s/Sheniqua Whitaker, Deputy Clerk

1631854170201000000000008

BTXN 116 (rev. 07/08)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

WITHDRAWAL OF REFERENCE SERVICE LIST

Transmission of the Record

BK Case No.: 16−31854−bjh11

Adversary No.: 16−03151−bjh

Received in District Court by: _____

Date: _____

Volume Number(s): _____

cc: Barbara J. Houser
Michaela Crocker
Jane Gerber
Attorney(s) for Appellant
US Trustee

Plaintiff ECN Capital (Aviation) Corp.

George H. Barber
Kane, Russell, Coleman & Logan, PC
1601 Elm St., Suite 3700
Dallas, TX 75201
(214) 777−4200

Defendant Airbus Helicopters (SAS)

Jason M. Katz
HIERSCHE, HAYWARD, DRAKELEY &URBACH, P.C.
15303 Dallas Parkway, Suite 700
Addison, Texas 75001
(972) 701−7000

BTXN 150 (rev. 11/10)

In Re: CHC Group Ltd.	§	
	§	Case No.: 16−31854−bjh11
Debtor(s)	§	Chapter No.: 11
ECN Capital (Aviation) Corp.	§	
Plaintiff(s)	§	Adversary No.: 16−03151−bjh
vs.	§	
Airbus Helicopters (SAS)	§	
Defendant(s)	§	

CIVIL CASE COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) **PLAINTIFF**
ECN Capital (Aviation) Corp.

DEFENDANT
Airbus Helicopters (SAS)

(b) County of Residence of First Listed Party:
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Party:
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)
George H. Barber
Kane, Russell, Coleman & Logan, PC
1601 Elm St., Suite 3700
Dallas, TX 75201
(214) 777−4200

Attorney's (If Known)
Jason M. Katz
HIERSCHE, HAYWARD, DRAKELEY &URBACH, P.C.
15303 Dallas Parkway, Suite 700
Addison, Texas 75001
(972) 701−7000

II. BASIS OF JURISDICTION

○ 1 U.S. Government Plaintiff ○ 2 U.S. Government Defendant ◉ 3 Federal Question (U.S. Government Not a Party) ○ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

Citizen of This State	○ 1	○ 1	Incorporated *or* Principal Place of Business In This State	○ 4 ○ 4
Citizen of Another State	○ 2	○ 2	Incorporated *and* Principal Place of Business In Another State	○ 5 ○ 5
Citizen or Subject of a Foreign Country	○ 3	○ 3	Foreign Nation	○ 6 ○ 6

IV. NATURE OF SUIT

○ 422 Appeal 28 USC 158 ◉ 423 Withdrawal 28 USC 157 ○ 890 Other Statutory Actions

V. ORIGIN

◉ 1 Original Proceeding ○ 2 Removed from State Court ○ 3 Remanded from Appellate Court ○ 4 Reinstated or Reopened
○ 5 Transferred from another district ○ 6 Multidistrict Litigation ○ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing **(Do not cite jurisdictional statutes unless diversity):**
28 USC 157

Brief description of cause:
Motion to withdraw the reference

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY
Judge: Docket Number:

DATED: 1/9/17

FOR THE COURT:
Jed G. Weintraub, Clerk of Court
by: /s/Sheniqua Whitaker, Deputy Clerk

Jason M. Katz, Texas SBN: 24038990
jkatz@hhdulaw.com
HIERSCHE, HAYWARD, DRAKELEY & URBACH, P.C.
15303 Dallas Parkway, Suite 700
Addison, TX 75001
Tel: 972-701-7000
Fax: 972-701-8765

Joseph J. Ortego, New York SBN: 1673805
jortego@nixonpeabody.com
Eric C. Strain, New York SBN: 5417621
estrain@nixonpeabody.com
Robert N. H. Christmas, New York SBN: 2186609
rchristmas@nixonpeabody.com
Shainee S. Shah, New York SBN: 5405683
sshah@nixonpeabody.com
NIXON PEABODY LLP
437 Madison Ave., 18th Floor
New York, NY 10022
Tel: (212) 940-3000
Fax: (212) 940-3111
(*Pro Hac Vice* motions to be filed)
ATTORNEYS FOR DEFENDANT AIRBUS HELICOPTERS, S.A.S.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re: CHC GROUP LTD., *et al.*, Debtors.	Chapter 11 Case No. 16-31854 (BJH) (Jointly Administered)
ECN CAPITAL (AVIATION) CORP., Plaintiff, v. AIRBUS HELICOPTERS, S.A.S., Defendant.	Adv. Pro. No. 16-3151 (BJH)

DEFENDANT AIRBUS HELICOPTERS, S.A.S.'S MOTION FOR WITHDRAWAL OF REFERENCE OF ADVERSARY PROCEEDING, AND BRIEF IN SUPPORT

\TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE[1]:

[1] Pursuant to Local Rule 5011.1, this Motion is directed to the Honorable District Judge, but is filed in the Bankruptcy Court.

COMES NOW, Defendant Airbus Helicopters, S.A.S. ("AH"), subject to and without waiving its objection to the Court's personal jurisdiction (discussed below), respectfully moves the Court for an order withdrawing the Order of Reference of Bankruptcy Cases and Proceedings *Nunc Pro Tunc* (Miscellaneous Rule No. 33 of the United States District Court Northern District of Texas) (the "Standing Order") as it relates to the above-captioned adversary proceeding.

INTRODUCTION

This adversary proceeding brought by non-debtor ECN Capital (Aviation) Corp. ("ECN") against non-debtor AH is a complex aviation product liability and tort lawsuit that has no connection with the above-captioned main bankruptcy proceedings (the "CHC Bankruptcy Proceedings") of the CHC Group debtor entities (the "CHC Debtors" or "Debtors"). It is a standalone lawsuit over ECN's dissatisfaction with five helicopters it owns that were designed and manufactured by AH. The outcome of the adversary proceeding will have no effect on the CHC Bankruptcy Proceedings, does not involve the Debtors' property, and ECN concedes that it is noncore. Resolution of this matter outside of the Bankruptcy Court furthers the interests of judicial economy, as ECN and AH have requested a jury trial and neither consents to the orders or final judgment of this Court, making the District Court's substantive involvement inevitable. These factors weigh strongly in favor of withdrawal of the reference as to this adversary proceeding.

AH has separately moved to dismiss (the "Motion to Dismiss") the adversary proceeding pursuant to Fed. R. Bankr. P. 7012(b) and Fed. R. Civ. P. 12(b)(1) and (b)(2) for lack of subject matter and personal jurisdiction, and because the Court should abstain under 28 U.S.C. § 1334(c)(1) from hearing this matter or dismiss it on *forum non conveniens* grounds. That motion is based on the fact that the adversary proceeding has no connection to the United States, involves only foreign (Canadian and French) parties, pertains solely to foreign subject matter and conduct,

involves evidence located entirely outside of the United States, will be governed by foreign law, and involves the strong interest of a foreign sovereign – France. Many of the arguments supporting AH's Motion to Dismiss also support the withdrawal of reference, and are incorporated by reference herein.

FACTUAL BACKGROUND

On May 5, 2016, the Debtors commenced voluntary cases under chapter 11 of the Bankruptcy Code in United States Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Court" or "the Court"). The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and N.D. Tex. L.B.R. 1015-1.

On November 17, 2016, ECN commenced its adversary proceeding against AH in the Bankruptcy Court. [*See* ECN Complaint ("Complaint"), Case No. 16-03151 (ECF No. 1).] None of the Debtors are parties. [*Id.*] ECN has demanded a jury trial. [Complaint, 31.] ECN states that the proceeding is non-core, and that it does not consent to the entry of final orders or judgment by the Bankruptcy Court. [*Id*. at ¶ 13.]

ECN's Complaint seeks damages related to five Super Puma helicopters that AH designed, manufactured and sold from its place of business in France to European purchasers other than ECN, which bought from third parties. [*See* Brief in Support of Motion to Dismiss, 3-4.] ECN is located in Canada, and the helicopters are registered and located outside of the United States. [*Id.* at 4.] ECN claims that its helicopters are defective based on accidents that occurred in Norway in 2016 and in the North Sea off of Scotland in 2009 involving different Super Puma helicopters, and related government aviation authority activity in Europe, including a temporary flight ban. [Complaint, *passim*.] ECN also asserts that AH has made false statements about the safety,

reliability and design of Super Puma helicopters. [*Id.* at ¶¶ 93-111.] ECN asserts that it has suffered economic loss due to reduced value and loss of use of the helicopters as a result of the alleged defect and flight ban. [*Id.* at ¶¶ 42, 44.] ECN has not alleged any connection between its product defect, negligence, breach of warranty, fraud or misrepresentation causes of action, or its damages, and any conduct, events or transactions that occurred in the United States. [*Id.* at *passim.*]

ECN leased the helicopters to Debtor CHC Helicopters Barbados ("CHC Barbados"). [*See Id.* at ¶ 12.] Those leases (the "ECN Leases") were rejected in the CHC Bankruptcy Proceedings. [*Id.*] The Debtors' stated reason for rejecting the ECN Leases was that "with the ongoing downturn in the Debtors' industry, these same helicopters are no longer necessary to the Debtors' operations." [May 5, 2016 Omnibus Mot., Case No. 16-31854, ¶ 40 (ECF No. 20); May 27, 2016 Omnibus Mot., Case No. 16-31854, ¶ 41 (ECF No. 210).] ECN's Adversary Proceeding does not seek damages from AH related to the rejection of the ECN Leases. [Complaint, *passim*.]

RELIEF REQUESTED AND BASIS FOR RELIEF

Subject to and without waiving its personal jurisdiction objection, AH respectfully requests that the District Court enter an order withdrawing the reference to the Bankruptcy Court pursuant to 28 U.S.C. § 157(d).

ARGUMENT

Section 157(a) of Title 28 and the Standing Order in this District work in conjunction to automatically refer to the Bankruptcy Court all cases under title 11 and all proceedings arising in, under or related to title 11 to the Bankruptcy Court. The District Court may permissively withdraw reference pursuant to 28 U.S.C. § 157(d) which states that the "district court may withdraw, in

whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion for any party, for cause shown." 28 U.S.C. § 157(d).

In *Holland Am. Ins. Co. v. Succession of Roy*, the Fifth Circuit explained that "Article I bankruptcy courts may not have original jurisdiction over adversary proceedings that do not intimately involve the debtor-creditor relationship and rest solely in issues of state law." 777 F.2d 992, 999 (5th Cir. 1985). Although "cause" is not defined in the Bankruptcy Code or Title 28, courts weigh six factors outlined in *Holland* to determine if cause exists: "1) promoting uniformity in bankruptcy administration, 2) reducing forum shopping and confusion, 3) fostering the economical use of the debtors' and creditors' resources, 4) expediting the bankruptcy process, 5) whether jury demands have been made, and 6) core versus non-core matters." *Mobley v. Quality Lease & Rental Holdings, LLC (In re Quality Lease & Rental Holdings, LLC)*, Nos. 14-60074, 14-6005, 2016 Bankr. LEXIS 297, at *14-15 (U.S. Bankr. S.D. Tex. Feb. 1, 2016); *Holland*, 777 F.2d at 999 (outlining factors); *Mirant v. The Southern Co.*, 337 B.R. 107, 123 (N.D. Tex. 2006) (McBryde, J.); *see also* N.D. Tex. L.B.R. 5011-1(a) (listing some of the same factors). These factors weigh heavily in favor of withdrawal of reference for ECN's adversary proceeding.

A. <u>The Adversary Proceeding is Non-Core</u>

"The majority of courts evaluating a request to withdraw the reference place paramount importance on whether the claims at issue are core or non-core." *Mobley*, 2016 Bankr. LEXIS 297, at *18. Absent consent, bankruptcy courts do not have authority to enter final judgment on non-core claims. *Id.* at *19. In *Mobley*, the court explained,

> Absent consent, this Court does not have the authority to enter a final judgment on non-core claims. If the bankruptcy court were to try the case and then enter a judgment on core claims and a report and recommendation to the district court on the non-core claims, the ultimate resolution would be complex and time-consuming . . . The United States District Court is the only court with the jurisdiction and authority to consider all claims in this proceeding.

Id. at *19-20.

In this case, ECN concedes, and AH agrees, that the adversary proceeding against AH is a non-core proceeding [Complaint, ¶ 13], since it does not include any claims based on a right expressly created by title 11, has existence outside of the bankruptcy, and ECN does not invoke the Court's jurisdiction to adjudicate claims by or against a debtor. *Southmark Corp. v. Coopers & Lybrand (In re Southmark Corp.),*163 F.3d 925, 932 (5th Cir. 1999). Further, neither ECN nor AH consent to the entry of final orders or judgment by this Court. [Complaint, ¶ 13; Brief in Support of Motion to Dismiss, 2 n.1.] Thus, as in *Mobley*, only the District Court has the authority and jurisdiction to issue its orders and judgments for ECN's lawsuit, and there is no reason for the Bankruptcy Court to hear this complex and potentially time-consuming lawsuit.

Moreover, as more fully explained in AH's Motion to Dismiss, the adversary proceeding is not "related to" the Bankruptcy Proceedings. ECN alleges that "[t]he outcome of this lawsuit is likely to impact" (i) the CHC Debtors' estates and their administration, and (ii) and the rights, obligations and "choices of action" of the CHC Debtors and their creditors. [Complaint, ¶¶ 8, 42.] The adversary proceeding, however, does not name the CHC Debtors, and does not involve their estates' property. The helicopters are owned by ECN. Although the Debtors have made certain assertions about the financial impact of the flight ban, the stated reason for rejection of the ECN Leases was that the Debtors no longer needed the helicopters for their operations due to changed market conditions.

While ECN asserts that "[t]o the extent that ECN Capital recovers damages against Airbus through this action, the amount of ECN Capital's claims against the CHC Debtors will be reduced by ECN Capital's recovery," [*Id.* at ¶ 42], the source of damages to ECN in the two proceedings are completely separate – rejected leases (bankruptcy) versus the grounding (adversary). To the

extent that ECN recovers from AH in the adversary proceeding, the recovery would go to ECN, not the CHC Debtors. *Yashiro Co. v. Falchi (In re Falchi)*, Nos. 97 B 43080, 97-9057A, 1998 Bankr. LEXIS 622, *17-20 (U.S. Bankr. S.D.N.Y. May 26, 1998) (finding no "related to" jurisdiction in dispute between non-debtors where recovery would go to adversary proceeding plaintiff, not debtors) (citations omitted); *Singer v. Adamson*, 334 B.R. 1, 11 (Bankr. D. Mass. 2005) ("if Singer were to prevail on her claims against the non-debtor defendants, any damages she could recover would not be available for distribution to the Debtor's creditors as they would not be assets of the bankruptcy estate"). Thus, the fact that ECN alleges that the helicopters have a lower value is irrelevant as to the CHC Debtors Bankruptcy Proceeding.

B. ECN Has Demanded a Jury Trial

"When a party that is entitled to a jury trial properly requests a jury and does not consent to a jury trial before the bankruptcy court, the bankruptcy court must recommend that the adversary proceeding be withdrawn to the district court for trial." *Mobley*, 2016 Bankr. LEXIS 297, at *16-18 (citing *In re Clay*, 35 F.3d 190, 196-97 (5th Cir. 1994)). ECN and AH have demanded a jury trial, and AH does not consent to a jury trial before the Bankruptcy Court. This factor weighs strongly in favor of withdrawal of the reference. N.D. Tex. L.B.R. 5011-1(a)(4); *see also Levine v. M&A Custom Home Builder & Developer, LLC*, 400 B.R. 200, 203 (S.D. Tex. 2008) (withdrawing reference because defendant "demanded a jury trial, had not waived his right to a jury trial, and had not consented to a jury trial held in the bankruptcy court").

C. Forum Shopping

As explained, there is no basis for ECN to pursue its claim against AH for the helicopters in the United States absent the purported relationship to the CHC Debtors' bankruptcy. [*See* Brief

in Support of Motion to Dismiss, 6.] It is clear that ECN has brought this action as an adversary proceeding only to try to gain access to a United States forum.

Moreover, where a bankruptcy court can only issue proposed findings of fact and conclusion of law (subject to *de novo* review), as would be the case here, a motion to withdraw the reference is not forum shopping but a "reasonable effort to have a non-core proceeding litigated with a minimum of time and expense." *See Waldon v. Nat'l Fire Ins. Co,* No. 01-31527, 2006 Bankr. LEXIS 1861, at *16 (U.S. Bankr. S.D. Tex. June 14, 2006). Since the Bankruptcy Court cannot enter final orders or judgment in this proceeding, this Motion is a reasonable effort to have these non-core claims litigated efficiently in a forum that can resolve the dispute, assuming *arguendo* that jurisdiction exists in the United States.

D. Judicial Economy

The remaining factors considered (furthering bankruptcy uniformity, fostering economical use of resources, and expediting the bankruptcy process) are all essentially questions of judicial economy. *See Guff, v. Brown (In re Brown Med. Ctr., Inc),* No. 16-0084, 2016 U.S. Dist. LEXIS 12646, at *4-5 (S.D. Tex. Feb. 3, 2016). Judicial economy favors immediate withdrawal of the reference when, as here, a bankruptcy court cannot enter final orders or judgments on dispositive motions, and instead can only issue proposed findings of fact and conclusions of law. *Mirant,* 337 B.R. at 122-23 (referral to the District Court often results in more efficient and less costly results for "non-core" matters). "Adjudicating all of the claims . . . dispenses with the need for the district court to conduct a de novo review. . . [and] will foster the economical use of the resources of the litigants." *Id.*

Moreover, the reference should be withdrawn in this adversary proceeding against non-debtor defendants because it involves complex aviation product liability claims that are highly

technical and can take years to prepare for trial (with discovery taking place in foreign countries), and requires the expenditure of resources on a matter having no United States connection. [*See* Brief in Support of Motion to Dismiss, 10.] It also makes the most sense for the District Court to resolve the initial procedural matters raised by AH's Motion to Dismiss because their facts bear on the ultimate issues in the case. This Motion is an "effort to have a non-core matter litigated with a minimum of time and expense." *Waldon*, 2006 Bankr. LEXIS 1861, at *16.

CONCLUSION

In light of the overwhelming weight of the factors favoring withdrawal of the reference, Defendant Airbus Helicopters, S.A.S. respectfully requests that the Bankruptcy Court issue a report and recommendation to the District Court recommending immediate withdrawal of the reference pursuant to 28 U.S.C. § 157(d), and that AH be granted all other relief to which it is justly entitled.

DEMAND FOR JURY TRIAL

Subject to and without waiving its objection to the Court's personal jurisdiction, defendant AH hereby demands a trial by jury on all issues and claims so triable, and does not consent to jury trial before the bankruptcy court.

Dated: January 3, 2017.

Respectfully submitted,

HIERSCHE, HAYWARD, DRAKELEY & URBACH, P.C.

By: */s/ Jason M. Katz*

Jason M. Katz
Texas SBN: 24038990
jkatz@hhdulaw.com
15303 Dallas Parkway, Suite 700
Addison, Texas 75001
Tel. (972) 701-7000
Fax: (972) 701-8765

---AND---

NIXON PEABODY LLP
437 Madison Ave., 18th Floor
New York, NY 10022
Tel.: (212) 940-3000
Fax: (212) 940-3111
Joseph J. Ortego, New York SBN: 1673805
jortego@nixonpeabody.com
Eric C. Strain, New York SBN: 5417621
estrain@nixonpeabody.com
Robert N. H. Christmas, New York SBN: 2186609
rchristmas@nixonpeabody.com
Shainee S. Shah, New York SBN: 5405683
sshah@nixonpeabody.com
(*Pro Hac Vice* motions to be filed)

**ATTORNEYS FOR DEFENDANT,
AIRBUS HELICOPTERS S.A.S.**

CERTIFICATE OF CONFERENCE

On January 3, 2017, the undersigned attorney had a conference via e-mail with counsel for all Plaintiff to discuss the relief sought in this opposed motion. At that time, an agreement could not be reached among the parties.

/s/ Eric C. Strain
Eric C. Strain

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on January 3, 2017, a true and correct copy of the above and foregoing document was filed with the court via CM/ECF and served on all parties requesting electronic notification.

/s/ Jason M. Katz
Jason M. Katz

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re: CHC GROUP LTD., *et al.*, Debtors.	Chapter 11 Case No. 16-31854 (BJH) (Jointly Administered)
ECN CAPITAL (AVIATION) CORP., Plaintiff, v. AIRBUS HELICOPTERS (SAS), Defendant.	Adv. Pro. No. 16-3151 (BJH)

ORDER WITHDRAWING THE REFERENCE PURSUANT TO 28 U.S.C. § 157(d)

CAME ON FOR CONSIDERATION, the *Defendant Airbus Helicopters (SAS)'s Motion and Brief In Support For Withdrawal Of The Reference* (the "Motion") whereby Defendant seek to withdraw *Miscellaneous Rule 33 (Order of Reference of Bankruptcy Cases And Proceedings* Nunc Pro Tunc) (the "Standing Order") as it relates to the above-captioned adversary proceeding (the "Adversary Proceeding"). The Court finds that notice of the Motion is proper. The Court has received and reviewed the report issued by the Honorable Barbara Houser, United States

Bankruptcy Judge. The Court finds that Judge Houser's recommendation is well-taken and will be implemented in its entirety. It is therefore:

ORDERED, ADJUDGED AND DECREED that reference of the Adversary Proceeding to the Bankruptcy Court is hereby **WITHDRAWN** and that the clerk of the bankruptcy court shall transfer the Adversary Proceeding to the clerk of the District Court where it will be placed on this Court's docket**.**

 # # # End of Order # # #

SUBMITTED BY:

Jason M. Katz
Texas SBN: 24038990
HIERSCHE, HAYWARD, DRAKELEY & URBACH, P.C.
15303 Dallas Parkway, Suite 700
Addison, Texas 75001
Tel. (972) 701-7000
Fax: (972) 701-8765

---AND---

Joseph J. Ortego
NY SBN: 1673805
Eric C. Strain
NY SBN: 5417621
Robert N. H. Christmas
NY SBN: 2186609
Shainee S. Shah
NY SBN: 5405683
NIXON PEABODY LLP
437 Madison Ave., 18th Floor
New York, NY 10022
Tel: (212) 940-3000
Fax: (212) 940-3111
(*Pro Hac Vice* motions to be filed)

Attorneys for Defendant Airbus Helicopters S.A.S.