



Despite the parties' agreement that transfer is appropriate (which would make dismissal unnecessary), plaintiffs note for clarity that defendant's submitted proposed order calls for dismissal *with* prejudice. Given that defendant repeatedly states in its brief that the court may transfer the case to the Northern District of California in lieu of dismissal, this may be a typographical error. In any event, dismissal with prejudice is inappropriate. Should the court choose to dismiss this action, rather than transfer it, any such dismissal should be *without* prejudice, so that plaintiffs may re-bring the case in an appropriate forum. *See Univ. of Pittsburgh v. Varian Med. Sys.*, 569 F.3d 1328, 1332 (Fed. Cir. 2009) (An adjudication not on the merits "should not have preclusive effect--i.e. such a dismissal should be without prejudice.").

DATED: June 19, 2017

**YOUNG CONAWAY STARGATT & TAYLOR LLP**

*/s/ Karen L. Pascale*

---

Karen L. Pascale (#2903) [[kpascale@ycst.com](mailto:kpascale@ycst.com)]  
Pilar G. Kraman (#5199) [[pkraman@ycst.com](mailto:pkraman@ycst.com)]  
Rodney Square  
1000 North King Street  
Wilmington, DE 19801  
Telephone: (302) 571-6600  
[kpascale@ycst.com](mailto:kpascale@ycst.com)  
[pkraman@ycst.com](mailto:pkraman@ycst.com)

OF COUNSEL:

John R. Hutchins  
**ANDREWS KURTH KENYON LLP**  
1350 I Street NW, Suite 1100  
Washington, D.C. 20005  
Telephone (202) 662-2700  
Facsimile (202) 662-2739  
[johnhutchins@andrewskurthkenyon.com](mailto:johnhutchins@andrewskurthkenyon.com)

*Attorneys for Plaintiffs,  
Fisher-Price, Inc. and Mattel, Inc.*

**CERTIFICATE OF SERVICE**

I, Karen L. Pascale, Esquire, hereby certify that on June 19, 2017, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF (which will send notification that such filing is available for viewing and downloading to all registered counsel), and in addition caused true and correct copies of the foregoing document to be served upon the following counsel of record by electronic mail:

***Attorneys for Defendant Dynacraft BSC, Inc.:***

John C. Phillips, Jr. *jcp@pgmhlaw.com*  
PHILLIPS, GOLDMAN, McLAUGHLIN & HALL, P.A.  
1200 North Broom Street  
Wilmington, DE 19806  
(302) 655-4200

Larry L. Saret *LLSaret@michaelbest.com*  
MICHAEL BEST & FRIEDRICH LLP  
River Point  
444 West Lake Street  
Suite 3200  
Chicago, Illinois 60606

Arthur Gollwitzer III *AGollwitzer@michaelbest.com*  
MICHAEL BEST & FRIEDRICH LLP  
2801 Via Fortuna, Suite 300  
Austin, TX 78746

Rachel N. Bach *RNBach@michaelbest.com*  
MICHAEL BEST & FRIEDRICH LLP  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, WI 53202

**YOUNG CONAWAY STARGATT & TAYLOR, LLP**

*/s/ Karen L. Pascale*

June 19, 2017

---

Karen L. Pascale (No. 2903) [*kpascale@ycst.com*]

Pilar G. Kraman (#5199) [*pkraman@ycst.com*]

Rodney Square

1000 North King Street

Wilmington, Delaware 19801

Telephone: 302-571-6600

*Attorneys for Plaintiffs,*

*Fisher-Price, Inc. and Mattel, Inc.*