

EXHIBIT A

From: [Wells, Maclain](#)
To: [Ou, Philip](#)
Cc: [Chaikovsky, Yar R.](#); [Rumpler, Joseph](#); [Soobert, Allan M.](#); [Trevino, C. Daniel](#); [Hattenbach, Ben](#); [Zhong, Annita](#); [Chu, Morgan](#); [#Demaray Service \[Int\]](#); [Demaray - AMAT](#)
Subject: [EXT] RE: Applied/Demaray - NDCA CMC Statement
Date: Monday, January 11, 2021 12:03:20 PM
Attachments: [image001.png](#)

Phil,

Your insistence on improperly including aspects of a complaint in a separate case, raising separate issues, and contravening the Court's unambiguous order on these issues necessitates separate filings. We will state as much.

Regards,
Maclain

From: Ou, Philip <philipou@paulhastings.com>
Sent: Monday, January 11, 2021 11:59 AM
To: Wells, Maclain <MWells@irell.com>
Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumpler, Joseph <josephrumpler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <cdanieltrivino@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>
Subject: RE: Applied/Demaray - NDCA CMC Statement

Maclain,

That's your characterization which we, as stated numerous times, do not agree with. We maintain our belief the parties should be submitting a joint statement, setting forth their respective positions.

We understand you will not agree to a joint submission. Please do not misrepresent in your filing that we insisted on separate filings, as you suggested in your earlier e-mail of 11:25 am PT, as that is very clearly not the case based on this e-mail thread.

If there's anything further you want to discuss on this issue, I am free after 12:30 pm PT.

Thanks,
Phil

From: Wells, Maclain <MWells@irell.com>
Sent: Monday, January 11, 2021 11:51 AM
To: Ou, Philip <philipou@paulhastings.com>
Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumpler, Joseph <josephrumpler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <cdanieltrivino@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>
Subject: [EXT] RE: Applied/Demaray - NDCA CMC Statement

Phil,

As stated, we will not agree to a joint submission addressing a separate case, raising separate issues, and contravening the Court's unambiguous order on these issues.

Regards,
Maclain

From: Ou, Philip <philipou@paulhastings.com>
Sent: Monday, January 11, 2021 11:38 AM
To: Wells, Maclain <MWells@irell.com>

Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumpler, Joseph <josephrumpler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <danieltrevino@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>

Subject: RE: Applied/Demaray - NDCA CMC Statement

Maclain,

We are not insisting on separate filings. We believe the parties should file a joint CMC statement as directed by the Court. And the parties should submit their respective positions in that joint document. It is improper for you to dictate what Applied may say or not say in its portion of the joint submission, as it would be improper for Applied to do the same for your portion.

So please either (1) stop editing/deleting our portion of the joint submission, and instead, address whatever you believe you need to address in your portion or (2) confirm that you do not agree to a joint filing so we can proceed with preparing our own.

Please let us know by noon how you would like to proceed. For avoidance of doubt, we are not insisting on separate filings and believe the parties should file a joint submission.

Thanks,
Phil

From: Wells, Maclain <MWells@irell.com>

Sent: Monday, January 11, 2021 11:25 AM

To: Ou, Philip <philipou@paulhastings.com>

Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumpler, Joseph <josephrumpler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <danieltrevino@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>

Subject: [EXT] RE: Applied/Demaray - NDCA CMC Statement

Phil,

As stated, we will not agree to a joint submission addressing a separate case, raising separate issues, and contravening the Court's unambiguous order on these issues. If you insist on separate filings, please do not purport to include our positions on any issues as we will file our own statement.

Regards,
Maclain

From: Ou, Philip <philipou@paulhastings.com>

Sent: Monday, January 11, 2021 11:17 AM

To: Wells, Maclain <MWells@irell.com>

Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumpler, Joseph <josephrumpler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <danieltrevino@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>

Subject: RE: Applied/Demaray - NDCA CMC Statement

Maclain,

We do not agree with your characterizations of our portion of the joint statement and what issues we are raising or re-raising therein.

If you are refusing to file a joint submission absent being able to dictate what Applied can or cannot say in the section designated "Applied's Position" on "How the Cases Should Proceed", we will file our own statement noting your refusal.

Please let us know by noon PT how you would like to proceed. We are also available to meet and confer if you believe that will be productive.

Thanks,
Phil

From: Wells, Maclain <MWells@irell.com>
Sent: Monday, January 11, 2021 11:07 AM
To: Ou, Philip <philipou@paulhastings.com>
Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumpler, Joseph <josephrumpler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <cdaniel@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>
Subject: [EXT] RE: Applied/Demaray - NDCA CMC Statement

Phil,

Attached are redlines to the statement. If you want to re-raise the issues regarding substituting the complaint in the newly-filed case in the Applied I matter, you will need to raise that in a separate filing with the Court. We will not agree to address it in the joint case management statement.

Regards,
Maclain

From: Wells, Maclain
Sent: Monday, January 11, 2021 10:59 AM
To: 'Ou, Philip' <philipou@paulhastings.com>
Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumpler, Joseph <josephrumpler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <cdaniel@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>
Subject: RE: Applied/Demaray - NDCA CMC Statement

Phil,

We will not agree to a joint submission for a case management statement in Applied's first-filed case that is directed at the complaint in the second filed case. That is a separate case raising separate issues and Applied's attempts to contravene the Court's unambiguous order on this issue are improper.

Regards,
Maclain

From: Ou, Philip <philipou@paulhastings.com>
Sent: Monday, January 11, 2021 10:29 AM
To: Wells, Maclain <MWells@irell.com>
Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumpler, Joseph <josephrumpler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <cdaniel@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>
Subject: RE: Applied/Demaray - NDCA CMC Statement

Maclain,

We can agree to disagree on how we believe the Court should proceed with the related cases in view of the procedural posture in both actions as well as the customers suits in WDTX. And you are welcome to state your position in the joint submission, including why you believe our "attempts to substitute issues relating to Applied's new declaratory judgment complaint contravene the Court's order." We disagree with that characterization.

However, it is inappropriate to substantively edit/delete Applied's portion of the joint submission.

We accepted your edits (accept for your deletion of our position) and also revised the table of schedule so that it is just a proposal from Applied if you do not want to include your position on that point in the table.

Please let us know if you have any further edits to the attached.

Thanks,
Phil

From: Wells, Maclain <MWells@irell.com>
Sent: Sunday, January 10, 2021 9:55 PM
To: Ou, Philip <philipou@paulhastings.com>
Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumppler, Joseph <josephrumppler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <cdanieltrvino@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>
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Phil,

The Court denied Applied's attempt to "lodge its new declaratory judgment complaint as well as its request for the new declaratory judgment complaint to become the operative complaint in this action." *Applied I*, Dkt No. 53, at 3. The Court also denied "Applied's request that Demaray's pending motion to dismiss be denied as moot." *Id.* The Court has found that subject matter jurisdiction in this case is lacking. All that remains, is for the Court to address Demaray's pending motion to dismiss. Your attempts to substitute issues relating to Applied's new declaratory judgment complaint contravene the Court's order. There is no need for case schedule given the Court's prior determinations.

Our redlines to the Joint Case Management Statement are attached.

Regards,
Maclain

From: Ou, Philip <philipou@paulhastings.com>
Sent: Friday, January 8, 2021 2:24 PM
To: Wells, Maclain <MWells@irell.com>
Cc: Chaikovsky, Yar R. <yarchaikovsky@paulhastings.com>; Rumppler, Joseph <josephrumppler@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; Trevino, C. Daniel <cdanieltrvino@paulhastings.com>; Hattenbach, Ben <BHattenbach@irell.com>; Zhong, Annita <HZhong@irell.com>; Chu, Morgan <MChu@irell.com>; #Demaray Service [Int] <Demaray-Service@irell.com>; Demaray - AMAT <Demaray-AMAT@paulhastings.com>
Subject: Applied/Demaray - NDCA CMC Statement

Maclain,

Attached is a draft joint CMC statement updating the Court since the last one filed in late November. Please insert your position in the attached. If you believe there are other issues that we need to address in the joint submission, please let us know. I'm available to discuss the rest of the afternoon if needed.

We may have further edits in view of your inserts, and will also be available to confer over the weekend or Monday if needed.

The joint submission is due Monday.

Thanks,
Phil

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