

# EXHIBIT 12

**From:** [Colby.Davis@AllenOvery.com](mailto:Colby.Davis@AllenOvery.com)  
**To:** [Christopher.Clayton](mailto:Christopher.Clayton)  
**Cc:** [Noah.Brumfield@AllenOvery.com](mailto:Noah.Brumfield@AllenOvery.com); [Lisa.Nguyen@AllenOvery.com](mailto:Lisa.Nguyen@AllenOvery.com); [Eric.Lancaster@AllenOvery.com](mailto:Eric.Lancaster@AllenOvery.com); [Jeremy.Elman@AllenOvery.com](mailto:Jeremy.Elman@AllenOvery.com); [Adam.Woodward](mailto:Adam.Woodward); [Paul.Richter](mailto:Paul.Richter); [arojas@rojaslawfirm.com](mailto:arojas@rojaslawfirm.com); [jrojas@rojaslawfirm.com](mailto:jrojas@rojaslawfirm.com); [Timothy.Devlin](mailto:Timothy.Devlin)  
**Subject:** RE: Hon Hai's Draft Motion for Exceptional Case Status (22-cv-22706)  
**Date:** Wednesday, April 19, 2023 2:34:03 PM  
**Attachments:** [image001.png](#)

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Chris,

These are fine to file. Thank you.

Regards,

**Colby A. Davis | Associate**  
**Allen & Overy LLP**

1101 New York Ave NW | Washington | DC | 20005 | USA  
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**From:** Christopher Clayton <cclayton@devlinlawfirm.com>  
**Sent:** Wednesday, April 19, 2023 1:33 PM  
**To:** Davis, Colby:LT (DC) <Colby.Davis@AllenOvery.com>  
**Cc:** Brumfield, Noah:CO (DC) <Noah.Brumfield@AllenOvery.com>; Nguyen, Lisa <Lisa.Nguyen@AllenOvery.com>; Lancaster, Eric <Eric.Lancaster@AllenOvery.com>; Elman, Jeremy <Jeremy.Elman@AllenOvery.com>; Adam Woodward <awoodward@devlinlawfirm.com>; Paul Richter <prichter@devlinlawfirm.com>; arojas@rojaslawfirm.com; jrojas@rojaslawfirm.com; Timothy Devlin <tdevlin@devlinlawfirm.com>  
**Subject:** RE: Hon Hai's Draft Motion for Exceptional Case Status (22-cv-22706)

**Caution: non-A&O email**

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Colby – please see attached and confirm that we are OK to file.

Best,

Chris

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**From:** Christopher Clayton  
**Sent:** Tuesday, April 18, 2023 2:17 PM  
**To:** [Colby.Davis@AllenOvery.com](mailto:Colby.Davis@AllenOvery.com)  
**Cc:** [Noah.Brumfield@AllenOvery.com](mailto:Noah.Brumfield@AllenOvery.com); [Lisa.Nguyen@AllenOvery.com](mailto:Lisa.Nguyen@AllenOvery.com); [Eric.Lancaster@AllenOvery.com](mailto:Eric.Lancaster@AllenOvery.com); [Jeremy.Elman@AllenOvery.com](mailto:Jeremy.Elman@AllenOvery.com); Adam Woodward

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[arojas@rojaslawfirm.com](mailto:arojas@rojaslawfirm.com); [jrojas@rojaslawfirm.com](mailto:jrojas@rojaslawfirm.com); Timothy Devlin <[tdevlin@devlinlawfirm.com](mailto:tdevlin@devlinlawfirm.com)>  
**Subject:** RE: Hon Hai's Draft Motion for Exceptional Case Status (22-cv-22706)

Agreed. Thanks Colby.

Chris

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**From:** [Colby.Davis@AllenOvery.com](mailto:Colby.Davis@AllenOvery.com) <[Colby.Davis@AllenOvery.com](mailto:Colby.Davis@AllenOvery.com)>  
**Sent:** Tuesday, April 18, 2023 2:15 PM  
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**Cc:** [Noah.Brumfield@AllenOvery.com](mailto:Noah.Brumfield@AllenOvery.com); [Lisa.Nguyen@AllenOvery.com](mailto:Lisa.Nguyen@AllenOvery.com);  
[Eric.Lancaster@AllenOvery.com](mailto:Eric.Lancaster@AllenOvery.com); [Jeremy.Elman@AllenOvery.com](mailto:Jeremy.Elman@AllenOvery.com); Adam Woodward  
<[awoodward@devlinlawfirm.com](mailto:awoodward@devlinlawfirm.com)>; Paul Richter <[prichter@devlinlawfirm.com](mailto:prichter@devlinlawfirm.com)>;  
[arojas@rojaslawfirm.com](mailto:arojas@rojaslawfirm.com); [jrojas@rojaslawfirm.com](mailto:jrojas@rojaslawfirm.com); Timothy Devlin <[tdevlin@devlinlawfirm.com](mailto:tdevlin@devlinlawfirm.com)>  
**Subject:** RE: Hon Hai's Draft Motion for Exceptional Case Status (22-cv-22706)

Hi Chris,

We agree to a two-week extension for the opposition, if BNR would not oppose a one-week extension for the reply. Please let us know.

Regards,

**Colby A. Davis | Associate**  
**Allen & Overy LLP**

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**From:** Christopher Clayton <[cclayton@devlinlawfirm.com](mailto:cclayton@devlinlawfirm.com)>  
**Sent:** Tuesday, April 18, 2023 11:03 AM  
**To:** Davis, Colby:LT (DC) <[Colby.Davis@AllenOvery.com](mailto:Colby.Davis@AllenOvery.com)>; Adam Woodward  
<[awoodward@devlinlawfirm.com](mailto:awoodward@devlinlawfirm.com)>; Paul Richter <[prichter@devlinlawfirm.com](mailto:prichter@devlinlawfirm.com)>;  
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**Cc:** Brumfield, Noah:CO (DC) <[Noah.Brumfield@AllenOvery.com](mailto:Noah.Brumfield@AllenOvery.com)>; Nguyen, Lisa  
<[Lisa.Nguyen@AllenOvery.com](mailto:Lisa.Nguyen@AllenOvery.com)>; Lancaster, Eric <[Eric.Lancaster@AllenOvery.com](mailto:Eric.Lancaster@AllenOvery.com)>; Elman, Jeremy  
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**Subject:** RE: Hon Hai's Draft Motion for Exceptional Case Status (22-cv-22706)

**Caution: non-A&O email**

Colby,

We understand that BNR's response to Hon Hai's motion is due 4/21. We would like to extend this deadline by two-weeks to 5/5.

Please let us know if you would be agreeable to this extension request.

Thanks,

Chris

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**From:** [Colby.Davis@AllenOvery.com](mailto:Colby.Davis@AllenOvery.com) <[Colby.Davis@AllenOvery.com](mailto:Colby.Davis@AllenOvery.com)>  
**Sent:** Tuesday, April 4, 2023 12:01 PM  
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**Cc:** [Noah.Brumfield@AllenOvery.com](mailto:Noah.Brumfield@AllenOvery.com); [Lisa.Nguyen@AllenOvery.com](mailto:Lisa.Nguyen@AllenOvery.com); [Eric.Lancaster@AllenOvery.com](mailto:Eric.Lancaster@AllenOvery.com); [Jeremy.Elman@AllenOvery.com](mailto:Jeremy.Elman@AllenOvery.com)  
**Subject:** RE: Hon Hai's Draft Motion for Exceptional Case Status (22-cv-22706)

Chris,

In light of the anticipated filing on Friday, we are inquiring again about BNR's interest in a second conference to discuss the updated declarations, whether BNR's positions have changed from the previous meet and confer, and any other issues. We continue to welcome any legal authority that supports BNR's position on procedure.

Regards,

**Colby A. Davis | Associate**  
**Allen & Overy LLP**

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**Cc:** Brumfield, Noah:CO (DC) <[Noah.Brumfield@AllenOvery.com](mailto:Noah.Brumfield@AllenOvery.com)>; Nguyen, Lisa <[Lisa.Nguyen@AllenOvery.com](mailto:Lisa.Nguyen@AllenOvery.com)>; Lancaster, Eric <[Eric.Lancaster@AllenOvery.com](mailto:Eric.Lancaster@AllenOvery.com)>; Elman, Jeremy <[Jeremy.Elman@AllenOvery.com](mailto:Jeremy.Elman@AllenOvery.com)>  
**Subject:** RE: Hon Hai's Draft Motion for Exceptional Case Status (22-cv-22706)

Chris,

Please see attached Exhibits A-C to Hon Hai's Motion for Exceptional Case Status. As requested by BNR, the edits to the declarations provide all available identifying information relating to conference between the parties. The motion will be filed on April 7th. As noted last week, we welcome any legal authority supporting BNR's position on procedure. To the extent BNR believes it may be productive, we also welcome a second teleconference.

Regards,

**Colby A. Davis | Associate**  
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**From:** Davis, Colby:LT (DC)

**Sent:** Friday, March 24, 2023 4:25 PM

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**Cc:** Brumfield, Noah:CO (DC) <[Noah.Brumfield@AllenOvery.com](mailto:Noah.Brumfield@AllenOvery.com)>; Nguyen, Lisa <[Lisa.Nguyen@AllenOvery.com](mailto:Lisa.Nguyen@AllenOvery.com)>; Lancaster, Eric <[Eric.Lancaster@AllenOvery.com](mailto:Eric.Lancaster@AllenOvery.com)>; Elman, Jeremy <[Jeremy.Elman@AllenOvery.com](mailto:Jeremy.Elman@AllenOvery.com)>

**Subject:** RE: Hon Hai's Draft Motion for Exceptional Case Status (22-cv-22706)

Chris,

Initially, it is clear on the face of the document that our motion is submitted in good faith with reasonable basis in law and fact, and so BNR's threat of sanctions is unfounded and unhelpful. BNR has been aware that Hon Hai was considering pursuit of attorney's fees since at least February 1st, when Hon Hai filed a response to BNR's "unopposed" motion to dismiss (Dkt. No. 126) explicitly objecting to the requirement that each party shall bear its own attorney's fees and costs. Dkt. No. 128. At 5:19 PM EST on February 2nd—the day before BNR filed a second motion to dismiss Hon Hai (Dkt. No. 131)—you called me, Chris, specifically inquiring if Hon Hai intended to pursue attorney's fees. I told you straightforwardly that we were considering pursuing attorney's fees and conducting research, but had not made a final decision. In that context, BNR's expression of surprise and its threats of sanctions are difficult to understand.

In regard to procedure, as I explained yesterday, "[p]ursuant to Federal Rule of Civil Procedure 54(d)(2)(C), either party may move the Court to determine entitlement [to attorney's fees] prior to submission on the issue of amount." S.D. Fla. L.R. 7.3(a); *see also* Fed. R. Civ. Pro. 54(d)(2)(C) ("The court may decide issues of liability for fees before receiving submissions on the value of services.").

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