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July 30, 2020

Via CM/ECF

The Honorable Maryellen Noreika
United States District Court Judge
J. Caleb Boggs Federal Building
844 North King Street
Unit 19
Room 4324
Wilmington, Delaware 19801-3555

RE: ***Lin Luo v. Melinta Therapeutics, Inc., C.A. No. 20-600 (MN)***

Dear Judge Noreika:

Melinta Therapeutics, Inc. (“Appellee” or “Melinta”), through its counsel Skadden, Arps, Slate, Meagher & Flom LLP, respectfully submits the enclosed proposed briefing schedule for the above-captioned bankruptcy appeal, as directed by the order entered on July 9, 2020 [Docket No. 4].¹

On July 23, 2020, counsel for Appellee conferred with appellant Lin Luo (the “Appellant”) and proposed a briefing schedule that would require Ms. Luo to file and serve her opening brief by August 29, 2020, and thereafter continue in accordance with Rule 8018(a) of the Federal Rules of Bankruptcy Procedure. Ms. Luo rejected this

¹ Documents filed in this appeal are cited as “Docket No.”; documents filed in the bankruptcy court are cited as “Bankr. Docket No.”



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proposal and, on July 28, 2020, filed a proposed briefing schedule [Docket No. 5], requesting that her opening brief be filed and served by December 14, 2020, and that she be afforded 30 days following service of Appellee's brief to file and serve her reply brief. Appellee's counsel informed Ms. Luo that her proposed schedule is unacceptable to Appellee. Accordingly, Appellee respectfully submits the counterproposal below.

Ms. Luo's proposed briefing schedule significantly exceeds the time periods contemplated by Rule 8018(a) of the Federal Rules of Bankruptcy Procedure, and none of the reasons Ms. Luo identifies for such an elongated schedule is availing.

First, the pending motions Ms. Luo references will hardly have the "decisive impact" on this appeal Ms. Luo claims [Docket No. 5 at 1]. One such motion [Bankr. Docket No. 695] requests that certain documents previously sealed by order of the bankruptcy court be unsealed. The others [Bankr. Docket Nos. 708, 768] apparently seek to bar certain of Melinta's stakeholders from holding Melinta's new common stock in the future. The bankruptcy court recognized that these motions are not germane to Ms. Luo's appeal of the confirmation order: that is precisely why the bankruptcy court declined to adjudicate such motions in connection with its recent opinion denying reconsideration of the confirmation order and expressly stated in such opinion that Ms. Luo's appeal should now proceed [Bankr. Docket No. 744 at 6, 17].

Second, the so-called "shareholder group" is not properly a party to this appeal, and so the incapacity of its purported attorney is not grounds to delay briefing. Although Ms. Luo's notice of appeal identifies the appellants as herself "and other shareholders" [Docket No. 1], these "other shareholders" are not identified and have not signed the notice of appeal either personally or through counsel. Nor has any putative shareholder group filed a statement pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure—the required procedure when a group of creditors or shareholders form an *ad hoc* group to "act[] in concert to advance their common interests." Fed. R. Bankr. P. 2019(b). As evidenced by her filings in this Court and in the bankruptcy court, and as she confirmed to Appellee's counsel in recent email correspondence, Ms. Luo continues to represent herself *pro se* in this appeal.

Third, Ms. Luo has already had significant time to prepare her brief. Her appeal was filed on April 30, 2020, and the bankruptcy court's order denying her motion to reconsider was entered on July 2, 2020 [Bankr. Docket No. 745]. Appellee's proposed briefing schedule would afford Ms. Luo more than ample time to prepare her briefs.

Finally, Appellee has a strong interest in the prompt adjudication of this appeal in order to bring finality to its reorganization efforts.

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As an accommodation, however, Appellee would agree to extend Ms. Luo's deadline to file her opening brief by approximately two weeks relative to Appellee's original proposal. Accordingly, by the enclosed order, Appellee respectfully submits the following proposed briefing schedule:

Appellant's Opening Brief Deadline:	September 14, 2020
Appellee's Response Brief Deadline:	30 days after service of Appellant's Opening Brief
Appellant's Reply Brief Deadline:	14 days after service of Appellee's Response Brief

We are available to discuss this matter at the Court's convenience.

Respectfully submitted,

/s/ Jason M. Liberi

Jason M. Liberi (I.D. No. 4425)

Enclosure

cc: Lin Luo (via email and first-class mail)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:)
)
)
MELINTA THERAPEUTICS, INC., ET AL.,)
)
Reorganized Debtors.¹)
_____)
)
LIN LUO)
)
Appellant,)
) C. A. No. 20-600 (MN)
v.)
) Bankruptcy Case No. 19-12748 (LSS)
MELINTA THERAPEUTICS, INC.)
) BAP No. 20-09
Appellee.)
_____)
)
)
_____)

**[PROPOSED] ORDER SETTING BRIEFING SCHEDULE
FOR BANKRUPTCY APPEAL**

IT IS HEREBY ORDERED this ____ day of _____, 2020, that the following briefing schedule shall govern this appeal:

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are: Melinta Therapeutics, Inc. (0364); Cempra Pharmaceuticals, Inc. (5814); CEM-102 Pharmaceuticals, Inc. (4262); Melinta Subsidiary Corp. (9437); Rempex Pharmaceuticals, Inc. (6000); and Targanta Therapeutics Corporation (1077). The address of the Debtors' corporate headquarters is 44 Whippany Road, Suite 280, Morristown, New Jersey 07960.

Appellant's Opening Brief Deadline:	September 14, 2020
Appellee's Response Brief Deadline:	30 days after service of Appellant's Opening Brief
Appellant's Reply Brief Deadline:	14 days after service of Appellee's Response Brief

Date: Wilmington, Delaware
_____, 2020

HONORABLE MARYELLEN NOREIKA
UNITED STATES DISTRICT JUDGE