

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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In re:	)	Chapter 11
	)	
MELINTA THERAPEUTICS, INC., et al.,	)	C.A. No. 19-12748 (LSS)
	)	
Debtors.	)	BAP No. 20-09

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LIN LUO,	)	
	)	
Appellant,	)	
	)	
v.	)	C.A. No. 20-600 (MN)
	)	
MELINTA THERAPEUTICS, INC.,	)	
	)	
Appellee.	)	

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**ORDER**

At Wilmington this 21st day of October 2020, having considered Appellant’s Motion for Continuance (D.I. 12) and Appellee’s Objection thereto (D.I. 14), IT IS HEREBY ORDERED that the motion is DENIED for the following reasons:

Appellant filed this appeal *pro se* on April 30, 2020 appealing a Bankruptcy Court Order dated April 11, 2020 confirming the modified amended joint Chapter 11 Plan of reorganization of Appellee. On July 28, 2020, Appellant filed a proposed briefing schedule (D.I. 5) seeking an opening brief due date of December 14, 2020 and a reply brief deadline of thirty (30) days after the answering brief stating that: (1) motions were scheduled to be heard before the Bankruptcy Court on September 17, 2020 that “will have decisive impact on the appeal case” and (2) the attorney, Mr. Colbert, who represents the “shareholders group”<sup>1</sup> has been hospitalized. On July 30, 2020, Appellee filed a letter and competing briefing schedule stating, *inter alia*, that the

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<sup>1</sup> The Notice of Appeal lists Appellants as “Lin Luo and other shareholders.” No other shareholders are identified, however, and no one other than Ms. Luo signed the Notice of Appeal.



briefing schedule proposed by Appellant “significantly exceeds the time periods contemplated by Rule 8018(a) of the Federal Rules of Bankruptcy Procedure” and that the “shareholder group’ is not properly a party to this appeal and [] the incapacity of its purported attorney is not grounds to delay briefing.” (D.I. 10 at 2). Appellee proposed September 14, 2020 as the due date for Appellant’s opening brief with the answering brief due 30 days thereafter and the reply brief due 15 days after service of the answering brief. After considering the parties’ proposals, on July 30, 2020, the Court entered an order setting the briefing schedule for this appeal with October 28, 2020, November 30, 2020, and December 14, 2020 as the due dates for the briefs, effectively splitting the difference between the parties’ two proposals. (D.I. 11).

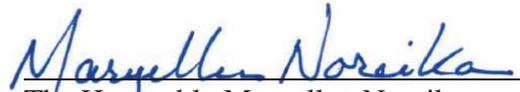
On October 16, 2020, Appellant filed a motion for continuance seeking an extension of the opening brief deadline from October 28, 2020 to January 31, 2021. (D.I. 12). Appellant once again advises that the “shareholders group attorney” is ill and that the group is in the process of retaining another attorney, Appellant would be seeking discovery<sup>2</sup>, and stating that Appellant is unable to prepare the opening brief in the time remaining. On October 20, 2020, Appellee filed an objection to the motion for a continuance (D.I. 14) pointing out that Mr. Colbert is not *pro se* Appellant’s attorney and he has not appeared for Appellant in either the Bankruptcy Court or this Court (D.I. 14 at 2-3), that six months have elapsed since the entry of the order Appellant appeals (*Id.* at 2), and that Appellant has filed over 30 motions and other papers in the Bankruptcy Court since the issuance of the April 11, 2020 Order which Appellant appeals (*Id.*).

The Court agrees with Appellee. Appellant has not set forth a compelling basis for the Court to reconsider its prior order setting the briefing schedule. Mr. Colbert is not Appellant’s

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<sup>2</sup> Indeed, along with the Motion for Continuance, Appellant filed a Motion for Order Pursuant to Bankruptcy Rule 2004 Authorizing Discovery. (D.I. 13). Pursuant to this Court’s Local Rules, the answering brief is due October 30, 2020. This Court takes no position on that motion in this order and shall issue an order in due course once briefing is complete on that motion.

attorney, appears never to have been, and his illness is, unfortunately, not something new. Appellant has also proven that she is more than capable of litigating, having filed numerous motions with the Bankruptcy Court since the entry of the April 11, 2020 Order on appeal. By the October 28, 2020 opening brief due date, Appellant will have had just over six (6) months to prepare the opening brief.

  
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The Honorable Maryellen Noreika  
United States District Court