

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

<i>In re</i> MELINTA THERAPEUTICS, INC., et al., Debtors. ¹	Chapter 11 Case No. 19-12748 (LSS) BAP No. 20-09
LIN LUO, Appellant, v. MELINTA THERAPEUTICS, INC. Appellee.	 C.A. No. 20-600 (MN) Related Docket No. 13 and 17

**JOINDER OF THE MEDICINES COMPANY
TO APPELLEE’S OBJECTION TO APPELLANT’S
MOTION FOR AN ORDER PURSUANT TO
BANKRUPTCY RULE 2004**

The Medicines Company (“MedCo”), by and through its undersigned counsel, joins in the *Appellee’s Objection to Appellant’s Motion for an Order Pursuant to Bankruptcy Rule 2004* [Docket No. 17] (the “Objection”).² Specifically, MedCo joins in the arguments set forth in the Objection opposing Appellant Lin Luo’s request for discovery pursuant to Bankruptcy Rule 2004, incorporates the Objection in its entirety as if fully set forth herein, and respectfully states as follows:

1. MedCo is not a party to Appellant’s appeal. If Appellant wanted discovery from MedCo in connection with Melinta’s chapter 11 case, that request should have

¹ The Reorganized Debtors and the last four digits of their respective taxpayer identification numbers are: Melinta Therapeutics, Inc. (0364); Cemptra 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 Reorganized Debtors’ corporate headquarters is 44 Whippany Road, Suite 280, Morristown, New Jersey 07960.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Objection.



been made to the Bankruptcy Court—where Appellant has been an active litigant—and prior to entry of the confirmation order. As noted in the Objection, the time for discovery has long-passed and should not be revived in this appeal.³

2. MedCo also wishes to correct the record with respect to Appellant’s certification that MedCo does not oppose the requested discovery. (Motion at 16). MedCo assumes Appellant made an inadvertent error, but to confirm, MedCo did not—and does not—consent to the requested discovery, and has previously informed Appellant of that position.⁴

3. In addition to the general impropriety of seeking additional discovery in the context of an appeal, Appellant’s requested discovery from MedCo would be unduly burdensome given its broad scope and its general grounding in a fundamental misunderstanding of Melinta’s chapter 11 plan and MedCo’s treatment thereunder. For all these reasons, MedCo respectfully requests that the Motion be denied.

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³ See *In re Application of Adan*, 437 F.3d 381, 389 (3d Cir. 2006) (refusing to consider new evidence on appeal “absent extraordinary circumstances, such as those that render the case moot or alter the appropriateness of injunctive relief, a change in pertinent law, or facts of which a court may take judicial notice.”).

⁴ The Motion is replete with numerous other misstatements concerning MedCo, its treatment under the Plan and its conduct prior to and during the chapter 11 cases. To avoid unnecessarily burdening the Court with responses and corrections for each, MedCo instead reserves the right to respond to such misstatements, if ever necessary, at the appropriate time.

WHEREFORE, MedCo respectfully requests that this Court (i) deny Appellant's request for discover from MedCo and (ii) grant such other relief as it deems just and proper.

Dated: October 30, 2020
Wilmington, Delaware

/s/ R. Stephen McNeill

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CERTIFICATE OF SERVICE

I, R. Stephen McNeill, hereby certify that I am not less than 18 years of age and that on this 30th day of October 2020, I caused a true and correct copy of the foregoing *Joinder of The Medicines Company to Appellee's Objection to Appellant's Motion for an Order Pursuant to Bankruptcy Rule 2004* to be served upon the parties listed below via email.

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Under penalty of perjury, I declare the foregoing is true and correct.

/s/ R. Stephen McNeill
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