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January 11, 2019

**VIA ELECTRONIC FILING AND BY HAND**

The Honorable David B. Cohen  
Part 58, IAS General Assignment Part  
111 Centre Street, Room 574  
New York, NY 10013

Re: Boyce v. Bruce Weber et al. / Index No. 160630/2017

Dear Justice Cohen:

We are counsel for defendants Bruce Weber and Little Bear, Inc. in the above-entitled action, and write in connection with the Preliminary Conference scheduled for January 30, 2019. Specifically, as explained below, we are writing to confirm that the Pretrial Conference currently scheduled for January 30, 2019 will include a discovery dispute conference.

On December 10, 2018, pursuant to Rule 10 the Rules of the Justices of the Supreme Court, Civil Branch, New York County, Mr. Weber and Little Bear filed a Request for a Preliminary Conference and Discovery Conference (the “Request”) [NYSCEF Doc No. 24]. As explained in the Request, a discovery dispute conference was needed so that defendants could file a motion to compel adequate responses to Mr. Weber’s and Little Bear’s Requests for Production and Interrogatories. As explained in the Request: (i) on June 1, 2018, Plaintiff agreed to produce certain categories of documents but had not produced them, and (ii) on December 3, 2018, Mr. Weber and Little Bear sent meet and confer letters to counsel for Plaintiff regarding Plaintiff’s deficient responses and requested a response by December 10, 2018,<sup>1</sup> but Plaintiff ignored these letters.

In response to our further efforts to obtain the long-overdue discovery to which defendants are entitled, on December 13, 2018, plaintiff’s counsel took the position that, because they intended to seek leave to amend the Complaint (discussed below), written discovery and

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<sup>1</sup> Attached as Exhibits A and B, respectively, are true and correct copies of defendants’ unanswered meet and confer letters, dated December 3, 2018.

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depositions would be “moot.” A true and correct copy of the December 13, 2018 email from Plaintiff’s counsel is attached as Exhibit C.

On December 27, 2018, counsel for the parties engaged in another “meet and confer” discussion. The discussion appeared to be productive, because Plaintiff’s counsel acknowledged that defendants were entitled to and agreed to produce additional documents and provide amended discovery responses by January 10, 2019. Indeed, in an email the following day, counsel for defendants’ confirmed what Plaintiff’s counsel had agreed to do. A true and correct copy of this confirmatory email from Plaintiff’s counsel, dated December 28, 2018 is attached as Exhibit D. Incredibly, however, to date, Plaintiff still has not produced anything or provided amended responses.

Accordingly, defendants Mr. Weber and Little Bear look forward to discussing the matters with the Court on January 30, 2019.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. L. Brown', with a stylized flourish at the end.

Daniel L. Brown

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

CC: All Counsel of Record