

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

JOHN DeGROOTE SERVICES LLC and JOHN
DeGROOTE, as liquidating trustee for and on behalf of
the BEARINGPOINT, INC. LIQUIDATING TRUST)

Case No.11-CV-00959-GBL-TRJ

Plaintiffs,)

v.)

F. EDWIN HARBACH, *et al.*,)

Defendants.)

**DECLARATION OF JOHN DEGROOTE (1) IN SUPPORT OF PLAINTIFFS' MOTION
FOR ABSTENTION AND REMAND AND (2) IN OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS ON THE GROUND OF *FORUM NON CONVENIENS* OR, IN
THE ALTERNATIVE, FOR TRANSFER UNDER 28 U.S.C. § 1412**

I, John DeGroote, hereby declare that the following is true and correct to the best of my knowledge, information and belief.

1. I am a plaintiff in this lawsuit as well as the President of John DeGroote Services, LLC ("JDS"), the other plaintiff in this lawsuit. I submit this declaration (1) in support of Plaintiffs' Motion for Abstention and Remand and (2) in Opposition to Defendants' Motion to Dismiss on the Ground of *Forum Non Conveniens* or, in the Alternative, for Transfer Under 28 U.S.C. § 1412. I am over the age of twenty-one (21). I have personal knowledge of the following facts and statements in this declaration, unless otherwise stated, and, if called upon to testify, I could and would testify competently thereto.

2. I am a resident of the state of Texas. JDS is a limited liability company, of which I am the sole member. JDS and I serve as the Liquidating Trustee ("Trustee") for the BearingPoint, Inc. Liquidating Trust (the "Liquidating Trust"). The Liquidating Trust was

created under the Debtors' Modified Second Amended Joint Plan Under Chapter 11 of the Bankruptcy Code (the "Plan"), confirmed by Order (the "Confirmation Order") of the United States Bankruptcy Court for the Southern District of New York in December 2009. A true and correct copy of the Plan is attached hereto as Attachment "1." A true and correct copy of the Confirmation Order is attached hereto as Attachment "2."

3. The Plan and the Confirmation Order assigned causes of action of BearingPoint, Inc. and certain of its affiliates ("BearingPoint") in bankruptcy to the Liquidating Trust, and conferred on the Trustee the authority to prosecute such causes of action on behalf of the Liquidating Trust. *Confirmation Order*, at ¶ 37; *Plan*, at §§ 5.7(g), 10.9. In particular, the Plan vested the Trustee with the authority and power "to hold, manage, convert to Cash, and distribute the Liquidating Trust Assets, including prosecuting and resolving the Claims belonging to the Liquidating Trust" as well as to "investigate, prosecute, settle and/or abandon rights, Causes of Action or litigation of the Liquidating Trust. . . ." *Plan* at §§ 5.7(g). The holders of various classes of unsecured claims are beneficiaries of the Liquidating Trust. *See Plan* at §§ 4.4(c), 4.5(c), 4.6(c), 4.7(b).

4. To the best of my knowledge, and as indicated in their claims filed in the United States Bankruptcy Court for the Southern District of New York, beneficiaries of the Liquidating Trust include citizens of every state in which a Defendant in this action resides, namely Florida, California, Maryland, Texas, New Jersey, Connecticut and Michigan. As a representative sample, Kaiser Foundation Health Plan Inc., one of the beneficiaries of the Liquidating Trust, is a California corporation headquartered in Oakland, California. Another beneficiary of the Liquidating Trust, the PGA Tour, Inc., maintains its principal place of business in Ponte Vedra Beach, Florida. Another beneficiary, the University Research Corporation International is a

Maryland corporation with its principal place of business in College Park, Maryland. Planview, Inc., a Texas corporation, has its principal place of business in Austin, Texas, and is also a beneficiary of the Liquidating Trust. Finally, the beneficiaries of the Liquidating Trust also include Verrex Corporation, a New Jersey corporation with its principal place of business in Mountainside, New Jersey, and two Connecticut governmental entities, the Connecticut Department of Revenue Services and the Connecticut Department of Labor. I base my belief on a review, by persons under my direction and control, of the records maintained by the Liquidating Trust, claims filed in BearingPoint's bankruptcy case by the above-named beneficiaries and various governmental filings of the beneficiaries.

5. To the best of my knowledge, information and belief, none of the anticipated witnesses in this case reside in Delaware.

6. To the best of my knowledge, information and belief, as of December 1, 2008, BearingPoint had 15,608 total employees, 8,439 of which were based in the United States. Of these employees based in the United States, 3,792 of them, or approximately 45%, were based in BearingPoint's offices located in Virginia. More than 2,500 of these employees were based at BearingPoint's corporate headquarters in McLean, Virginia and the remainder were located at other BearingPoint offices in McLean, Virginia as well BearingPoint offices in Springfield, Alexandria, Virginia Beach, Chantilly, Dahlgren and Richmond/Glen Allen, Virginia. BearingPoint never had an office in Delaware. I base my belief on a review, by persons under my direction and control, of the records maintained by the Liquidating Trust.

7. The primary hard-copy document storage warehouses associated with BearingPoint's accounts are located in Jessup, Maryland and Atlanta, Georgia. The vast majority of the documents in the Atlanta facility were transferred to Deloitte LLP during the

bankruptcy case. The Liquidating Trust continues to maintain fully the complete inventory in Jessup, Maryland.

8. There are currently over 27,414 individual cartons of documents at the Jessup facility, which is approximately 39 miles from the McLean, Virginia headquarters building that was occupied by BearingPoint, and approximately 44 miles from the Circuit Court of the County of Fairfax.

9. In May 2009, BearingPoint's principal place of business moved from McLean, Virginia to Dallas, Texas following BearingPoint's sale of a substantial portion of its business during the bankruptcy liquidation process, which included a transfer of BearingPoint's McLean, Virginia headquarters to Deloitte LLP. Filings with the United States Securities and Exchange Commission and other public documents issued since that time reflect BearingPoint's principal place of business as 100 Crescent Court, Suite 700, Dallas, Texas 75201.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20th day of September 2011.

By:


John DeGroot