

Collins-Chase, Charles

From: Collins-Chase, Charles
Sent: Tuesday, December 7, 2021 8:38 PM
To: emendelsohn@mmm.com
Cc: Jakes, Mike; Daley, Kathleen; Renison, Andrew; EXT-SBalick@ashbygeddes.com; EXT-AMayo@ashbygeddes.com
Subject: Bay Materials v. 3M, Case No. 21-cv-1610 (D. Del.)
Attachments: 2021.11.15 [001] Complaint.pdf; 2021.11.15 [006] Motion for Preliminary Injunction.pdf; 2021.11.15 [006-1].pdf; 2021.11.22 [014] REDACTED Opening Brief ISO Pl.pdf

Counsel,

We represent Bay Materials in Case No. 21-cv-1610.

We understand that at the end of the day on Friday, December 3, 2021, you emailed Steve Balick, Bay's Delaware counsel in this action, regarding Bay's November 15, 2021 service of 3M Company via the Corporate Trust Corporation ("CT Corporation"), one of 3M Company's listed registered agents on the Delaware Secretary of State's website who has accepted service on behalf of 3M Company in past cases. Your email attached a letter from CT Corporation that was purportedly sent to Mr. Balick. Mr. Balick did not receive any correspondence from CT Corporation, however, so he (and we) saw that letter for the first time as a result of your email.

We disagree with your assertion that 3M was not served on November 15, not only because CT Corporation is identified on the Delaware Secretary of State's website as one of 3M's registered agents, but also because CT Corporation apparently was in fact in communication with 3M regarding the filing of our summons and complaint. Despite CT Corporation's representation that it "was unable to forward" any documents, it seems CT Corporation did in fact forward at least the letter to 3M. Additionally, 3M was aware of the complaint and docket number, and therefore had full access to the complaint and exhibits, which were not filed under seal and were publicly available. We therefore were surprised that 3M nonetheless did not file an answer as required within 21 days of service.

To ensure the case moves forward expeditiously, yesterday we served the second of 3M's registered agents listed on the Delaware Secretary of State's website (Corporation Service Company), and we attach a copy of the complaint for your convenience. Also attached for your convenience are copies of Bay's preliminary injunction motion and the public version of the opening brief in support of the motion. We will send the accompanying documents for both the complaint and preliminary injunction motion under separate cover. We trust that this resolves any purported objections 3M may have had regarding service. Further, Bay can also agree that it will not raise any issue with 3M's failure to answer provided that 3M will not raise any issue regarding sufficiency or timing of service. Please confirm that 3M agrees.

Please also let us know at your earliest possible convenience whether 3M has selected outside counsel with whom we may begin discussing a schedule for Bay's preliminary injunction motion. Given the urgency of the preliminary injunction, Bay would like to reach agreement with 3M on a schedule that the parties could present to the Court as soon as possible.

Best regards,
Charles

Charles T. Collins-Chase

Partner | [Bio](#)

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW, Washington, DC 20001-4413

+1 202 408 4108 | fax: +1 202 408 4400 | charles.collins-chase@finnegan.com | www.finnegan.com

