



**Item 8.01. Other Events**

On December 9, 2015, Relmada Therapeutics, Inc. (the “Company”) filed a lawsuit in the U.S. District Court for the District of Nevada against Laidlaw & Company (UK) Ltd. and its two principals, Matthew Eitner and James Ahern (collectively, “Laidlaw”). The lawsuit alleges, among other things, that the press release issued by Laidlaw on December 4, 2015, which was subsequently filed with the Securities and Exchange Commission (“SEC”) on Schedule 14A, contains material misrepresentations and omissions in violation of federal securities law. In addition to violating Rule 14a-9 of the Securities Exchange Act of 1934, which provides that no solicitation of stockholders may be made any false or misleading statement, the lawsuit argues that the Laidlaw solicitation materials also conflict with Relmada’s Articles of Incorporation and Bylaws, as well as Nevada law.

In order to protect Relmada stockholders from Laidlaw’s false and misleading statements, the Company has filed a motion for a temporary restraining order that seeks to, among other things, enjoin Laidlaw from continuing to disseminate false and misleading information in direct violation of federal securities laws, including applicable proxy laws. The lawsuit also seeks to enjoin Laidlaw from soliciting proxies from Relmada stockholders under false and misleading pretenses, and to correct the misinformation it has already issued.

These matters were announced in a press release issued December 9, 2015, which is attached hereto as Exhibit 99.1. The pleadings with respect to these matters are attached hereto as Exhibits 99.2 and 99.3.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
99.1	Press Release
99.2	Complaint filed in the United States District Court for the District of Nevada
99.3	Motion for a Temporary Restraining Order filed in the United States District Court for the District of Nevada

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: December 9, 2015

**RELMADA THERAPEUTICS, INC.**

By: /s/ Sergio Traversa

Name: Sergio Traversa

Title: Chief Executive Officer



**Relmada Therapeutics Files Federal Lawsuit Against Laidlaw & Company  
and its Principals Matthew Eitner and James Ahern  
to Protect Interests of Relmada Stockholders**

*Lawsuit Reviews Laidlaw's Use of False and Misleading Materials in its  
Attempt to Gain Effective Control of Relmada*

**NEW YORK, December 9, 2015** - Relmada Therapeutics, Inc. (OTCQB: RLMD) ("Relmada" or the "Company"), a clinical-stage company developing novel therapies for the treatment of chronic pain, today announced that it has filed a lawsuit against Laidlaw & Company (UK) Ltd. and its two principals, Matthew Eitner and James Ahern, in the U.S. District Court for the District of Nevada. Laidlaw, an investment brokerage firm, previously served as an investment banker to Relmada. Using shares and confidential information gained from these services to Relmada, Laidlaw recently launched a contest to take effective control of the Company.

Laidlaw and its principals have a history of violating U.S. financial regulations, which has resulted in numerous customer complaints, regulatory sanctions and monetary penalties. In its lawsuit, Relmada claims that Laidlaw and its principals are once again violating U.S. laws and regulations, including disseminating materially false and misleading information in its attempt to take effective control of Relmada.

Sergio Traversa, Chief Executive Officer of Relmada, said, "Relmada's business is at an inflection point with significant value creation opportunities possible in the next 12 to 24 months. Recognizing this, we believe Laidlaw has opportunistically timed the launch of its contest to take effective control of the Company. We believe it is an egregious conflict of interest for Laidlaw to use the shares and confidential information it received as a result of its investment banking and consulting services to Relmada for its own gain. We believe Laidlaw's interests are very different from all other Relmada stockholders. At a minimum, this lawsuit should serve as a warning to our stockholders that Laidlaw's materials contain numerous false and misleading statements. We will continue to take all appropriate actions to protect the Company and the interests of all Relmada stockholders."

The lawsuit filed by Relmada claims that Laidlaw failed to comply with Securities and Exchange Commission ("SEC") regulations, Relmada's Articles of Incorporation and Bylaws, and Nevada law, and seeks to enjoin Laidlaw from continuing to disseminate false and misleading information and from soliciting proxies from Relmada stockholders under false and misleading pretenses, and to correct the misinformation it has already issued.

Relmada's lawsuit will be made available on Form 8-K, which will be filed with the SEC.

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#### **About Relmada Therapeutics, Inc.**

Relmada Therapeutics is a clinical-stage, publicly traded specialty pharmaceutical company developing novel versions of proven drug products together with new chemical entities that potentially address areas of high unmet medical need in the treatment of pain. The Company has a diversified portfolio of four lead products at various stages of development including d-Methadone (REL-1017) its N-methyl-D-aspartate (NMDA) receptor antagonist for neuropathic pain; topical mepivacaine (REL-1021), its orphan drug designated topical formulation of the local anesthetic mepivacaine; oral buprenorphine (REL-1028) its oral dosage form of the opioid analgesic buprenorphine; and LevoCap ER (REL-1015), its abuse resistant, sustained release dosage form of the opioid analgesic levorphanol. The Company's product development efforts are guided by the internationally recognized scientific expertise of its research team. The Company's approach is expected to reduce clinical development risks and costs while potentially delivering valuable products in areas of high unmet medical needs. For more information, please visit Relmada's website at: [www.relmada.com](http://www.relmada.com).

#### **Important Stockholder Information**

The Company will hold its 2015 Annual Meeting of Stockholders on December 30, 2015. On November 27, 2015, the Company filed with the U.S. Securities and Exchange Commission (the "SEC") and mailed to its stockholders a definitive proxy statement in connection with the Annual Meeting and the solicitation of proxies (the "2015 Proxy Statement"). The 2015 Proxy Statement contains important information about Relmada, the Annual Meeting and related matters.

#### **INVESTORS AND SECURITY HOLDERS ARE URGED TO READ THE 2015 PROXY STATEMENT AND ANY OTHER RELEVANT SOLICITATION MATERIALS WHEN THEY BECOME AVAILABLE BECAUSE THESE DOCUMENTS CONTAIN IMPORTANT INFORMATION.**

The 2015 Proxy Statement and other relevant solicitation materials (when they become available), and any and all documents filed by the Company with the SEC, may be obtained by investors and security holders free of charge at the SEC's web site at [www.sec.gov](http://www.sec.gov). In addition, Relmada's filings with the SEC, including the 2015 Proxy Statement and other relevant solicitation materials (when they become available), may be obtained, without charge, from Relmada by directing a request to the Company at 757 3rd Avenue, Suite 2018, New York, New York 10017, Attention: Senior Vice President Finance and Corporate Development. Such materials are also available at [ir.relmada.com/all-sec-filings](http://ir.relmada.com/all-sec-filings).

Relmada and its directors, officers and employees are deemed to be participants in the solicitation of proxies from Relmada's stockholders in connection with the Annual Meeting. Information regarding Relmada's directors and executive officers, including a description of their direct and indirect interests by security holdings, is contained in the 2015 Proxy Statement and in Relmada's 2015 Annual Report on Form 10-K filed with the SEC on September 11, 2015 (the "2015 Annual Report").

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### **Forward-Looking Statements**

The Private Securities Litigation Reform Act of 1995 provides a safe harbor for forward-looking statements made by us or on our behalf. We may from time to time make written or oral statements in this letter, the proxy statements filed with the SEC communications to stockholders and press releases which constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These forward-looking statements are based upon management’s current expectations, estimates, assumptions and beliefs concerning future events and conditions and may discuss, among other things, anticipated future performance, expected product development, product potential, future business plans and costs. Any statement that is not historical in nature is a forward-looking statement and may be identified by the use of words and phrases such as “expects,” “anticipates,” “believes,” “will,” “will likely result,” “will continue,” “plans to” and similar expressions. No forward-looking statement can be guaranteed and actual results may differ materially from those projected. Relmada undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future events, or otherwise. Readers are cautioned that it is not possible to predict or identify all of the risks, uncertainties and other factors that may affect future results and that the risks described herein should not be considered to be a complete list.

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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

**RELMADA THERAPEUTICS, INC.**, a Nevada corporation,

Plaintiff,

v.

**LAIDLAW & COMPANY (UK) LTD.**, a foreign corporation,  
**MATTHEW D. EITNER**, an individual and citizen of New Jersey,  
and **JAMES P. AHERN**, an individual and citizen of New Jersey,

Defendants.

Case No.:

**COMPLAINT FOR INJUNCTIVE RELIEF**

**(1) Violation of Section 14(a) of the Securities Exchange Act of 1934 and Rule 14a-9 Thereunder**

**(2) Injunctive Relief**

For its complaint against Defendants Laidlaw & Company (UK) Ltd. (“Laidlaw”), Matthew D. Eitner, and James P. Ahern (collectively, “Defendants”), Plaintiff Relmada Therapeutics, Inc. (“Relmada” or the “Company”) alleges as follows:

**NATURE OF CASE**

Defendants have lied to and misled the stockholders of Relmada about the annual meeting of stockholders that is scheduled to be held on December 30, 2015. On December 4, 2015, Defendants issued a press release, which subsequently was filed on December 7, 2015 with the Securities and Exchange Commission (“SEC”) on Schedule 14A, to solicit Relmada’s stockholders’ proxies for use at the annual meeting to elect five of Defendants’ hand-picked directors (the “False Solicitation”). But Defendants concealed from Relmada stockholders that the directors they purported to nominate were *ineligible* for election because Defendants *unequivocally missed the deadline* to validly nominate directors for election to the board of directors at the 2015 annual meeting under the Company’s bylaws. This misrepresentation and omission, among others described below, have created uncertainty surrounding the composition of Relmada’s board, likely would delay the appointment of qualified directors, and thus have caused and will continue to cause injury to Relmada and its stockholders.



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As individuals soliciting proxies under Section 14(a), Defendants have a duty to disseminate accurate and truthful information and to correct any previously issued statements that are materially misleading or untrue so that fair corporate elections can be achieved. They have disregarded that duty to further their own self-interest while harming Relmada and its stockholders. Accordingly, Relmada seeks preliminary and permanent injunctive relief and attorney's fees and costs.

**JURISDICTION AND VENUE**

1. The claims asserted herein arise under and pursuant to Section 14(a) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78n(a), and Rule 14a-9 promulgated thereunder by the SEC, 17 C.F.R. § 240.14a-9.

2. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331 and Section 27 of the Exchange Act, 15 U.S.C. § 78aa.

3. This Court has personal jurisdiction over Defendants because they have engaged in transactions and occurrences within the State of Nevada, including disseminating materially false and misleading information regarding a Nevada corporation.

4. Venue is proper in the United States District Court for the District of Nevada under Section 27 of the Exchange Act and 28 U.S.C. § 1391(b). Many of the acts charged herein, including the dissemination of materially false and misleading information, occurred in substantial part in this District.

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**PARTIES**

5. Plaintiff Relmada Therapeutics, Inc. is a Nevada corporation with its primary place of business in New York, NY.
6. Defendant Laidlaw & Company (UK) Ltd. is a foreign corporation with its primary place of business in New York, NY.
7. Upon information and belief, Defendant Matthew D. Eitner is an individual and citizen of New Jersey.
8. Upon information and belief, Defendant James P. Ahern is an individual and citizen of New Jersey.

**GENERAL ALLEGATIONS**

**Defendants exploit Laidlaw's previous engagements with Relmada to launch a proxy solicitation.**

9. Relmada is a clinical stage, publicly traded specialty pharmaceutical company focused on developing novel versions of proven drug products and new chemical entities that potentially address areas of high unmet medical need in the treatment of pain.

10. Defendants Laidlaw and its two principals, Matthew D. Eitner and James P. Ahern, have a historic relationship with Relmada that dates back to Laidlaw's service as Relmada's investment banking firm and advisers since 2011. Laidlaw acted as Relmada's placement agent in December 2011 and May 2014 securities offerings, and as Relmada's financial adviser in the merger through which Relmada became a publicly traded company.

11. In connection with these previous engagements, Relmada paid Laidlaw significant fees and issued them warrants to purchase stock. Laidlaw acquired the vast majority of the shares it beneficially owns in Relmada in the form of exercised or outstanding warrants for investment banking services it provided to the Company. Defendants beneficially own, in the aggregate, 1,134,405 shares of the Company's common stock.

12. Relmada's 2015 Annual Meeting of Stockholders is currently scheduled to be held on December 30, 2015.

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13. On December 4, 2015, Laidlaw issued a press release announcing the formation of a “Shareholder Value Creation Committee” that supposedly intended to launch proxy and consent solicitations by nominating five directors for election or appointment to Relmada’s board of directors. The press release notes that the participants in the proxy solicitation and consent solicitation by the Shareholder Value Creation Committee will include the Defendants in this action—Laidlaw, Matthew D. Eitner, and James P. Ahern.

14. On December 7, 2015, Defendants filed a copy of the press release with the SEC under Rule 14a-12 of the Exchange Act.

**Defendants’ intended proxy solicitation is based on materially false and misleading information.**

15. The False Solicitation contains false and materially misleading statements and omissions in violation of Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. § 78n(a)) and Regulation 14a-9 (17 C.F.R. § 240.14a-9).

16. In the False Solicitation, Defendants purport to nominate five “highly qualified, independent directors for election or appointment to Relmada’s board of directors” at the 2015 annual meeting. Defendants urge stockholders not to return the proxy card sent by the current Relmada Board of Directors and seek stockholders’ “authority to withhold [their] vote from counting towards a quorum at Relmada’s 2015 annual meeting.”

17. The False Solicitation fails to disclose, however, the material fact that Defendants’ purported intention to nominate any directors for election at the 2015 annual meeting is invalid due to Defendants’ failure to comply with the advance notice procedures for stockholder nominations to the Board outlined in the Company’s Second Amended and Restated Bylaws (the “Bylaws”).

18. Under Section 2.1(b)(iv) of the Bylaws, stockholders must provide notice of the proposed nomination no later than 120 days prior to the anniversary of the preceding year’s annual meeting:

To be timely, a stockholder’s notice shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the *one hundred twentieth (120th) day* and not earlier than the close of business on the one hundred fiftieth (150th) day *prior to the first anniversary of the preceding year’s annual meeting*; provided, however, that in the event that the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year’s annual meeting, notice by the stockholder, to be timely, must be so delivered not later than the later of the close of business on the one hundred twentieth (120th) day prior to such annual meeting and the tenth (10th) day following the day on which notice of the date of such meeting is first given to the stockholders, and not earlier than the close of business on the one hundred fiftieth (150th) day prior to such annual meeting.

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19. This provision was properly adopted by Relmada's Board of Directors in accordance with NRS 78.120(1)-(2) and Article VI of Relmada's articles of incorporation.

20. Relmada's 2014 annual meeting was held on December 18, 2014. All stockholder nominations for the 2015 annual meeting were therefore required to be submitted no later than August 20, 2015. Relmada did not receive notice from Defendants by August 20, 2015 of any nominations.

21. The False Solicitation, which was issued on December 4, 2015 (less than 30 days before the scheduled 2015 annual meeting), was the first notice of Defendants' claimed intention to nominate any directors for election at the 2015 annual meeting. Defendants' purported nominees are therefore ineligible for election at the 2015 annual meeting.

22. Defendants' failure to disclose that they have not complied with the Bylaws' requirements applicable to all stockholder nominations is a material omission that renders the False Solicitation purporting to put forth nominees for election at the 2015 annual meeting false and misleading.

23. The False Solicitation purports to nominate "five, highly qualified, independent directors for election" at the 2015 meeting to Relmada's board of directors.

24. Defendants' failure to disclose that there are only two seats up for election on Relmada's board at the 2015 annual meeting is a material omission that renders the False Solicitation purporting to nominate five directors for election at the 2015 annual meeting false and misleading.

25. The False Solicitation also states Defendants' intention "to file a consent solicitation seeking [stockholders'] consent [] to expand Relmada's board of directors and appoint certain of our director nominees to fill the newly created seats."

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26. Contrary to Defendants' assertion in the False Solicitation, they cannot "expand Relmada's board of directors." Defendants fail to disclose that the Bylaws state that the Board of Directors has the sole authority to set the size of the Board: "The number of directors who shall constitute the whole board shall be in such number not less than one (1) and not more than nine (9) as the Board of Directors shall at the time have designated."

27. This provision is in accordance with Nevada law, which provides that "[a] corporation must have at least one director, and may provide in its articles of incorporation or in its bylaws for a fixed number of directors or a variable number of directors, and for the manner in which the number of directors may be increased or decreased." NRS 78.115.

28. Defendants' misrepresentation regarding their ability to expand the size of Relmada's board of directors is material and renders the False Solicitation materially false and misleading.

29. The False Solicitation also contains a misleading laundry list of valid corporate actions taken by the Board and stockholders and inaccurately labels them as attempts at "entrenchment":

- staggering the board of directors into three classes;
- appointing new directors to the board . . . ;
- revising Relmada's bylaws to eliminate the shareholders' right to amend the bylaws and to provide that the bylaws can be amended only by Relmada's board of directors;
- reducing the quorum required for the Relmada's [*sic*] annual meeting from a majority to 34%; and
- establishing Nevada as the exclusive forum for litigation involving Relmada, its directors and shareholders.

30. The actions listed in the False Solicitation were all appropriate actions for the Board and stockholders to take under the Company's articles of incorporation, bylaws, and Nevada law.

31. The amendment to the articles of incorporation to create a classified board, for example, was enacted in February 2015, pursuant to Board approval and a vote of the majority of all outstanding shares, which Defendants fail to disclose. This action was taken in accordance with NRS 78.330(2), which provides that a Company's articles of incorporation "may provide for the classification of directors as to the duration of their respective terms of office or as to their election by one or more authorized classes or series of shares" provided that at least one-fourth are elected annually.

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32. Similarly, Relmada's Board appointed new directors to the Board pursuant to applicable Nevada law. NRS 78.335(5) provides that "[a]ll vacancies, including those caused by an increase in the number of directors, may be filled by a majority of the remaining directors, though less than a quorum, unless it is otherwise provided in the articles of incorporation."

33. The revision was also appropriate under Nevada law. NRS 78.120(1)-(2) state that a board of directors has "full control over the affairs of the corporation" and "may make the bylaws of the corporation." Under this statute, "the directors may adopt, amend or repeal any bylaw" and the articles of incorporation may grant the directors exclusive authority to adopt, amend, or repeal bylaws, as Relmada's articles of incorporation do.

34. Defendants' characterization of these legitimate corporate actions as "entrenchment" in the False Solicitation is materially false and misleading.

35. As a direct result of Defendants' violations of the federal securities laws, Relmada has suffered and is continuing to suffer irreparable harm due to the uncertainty and delay surrounding the composition and election of the Company's board of directors.

**FIRST CLAIM**

(Violation of Section 14(a) of the Exchange Act of 1934 and Rule 14a-9 Thereunder)

36. Relmada incorporates the allegations in the preceding paragraphs as if fully set forth herein.

37. As more fully described in Paragraphs 1 through 35, Defendants made materially false and misleading statements, and omitted to disclose necessary material facts, in the False Solicitation that they filed with the SEC in connection with their proxy and consent solicitation in advance of the Relmada 2015 annual meeting.

38. The Defendants violated Section 14(a) of the Exchange Act and Rule 14a-9 thereunder in that they solicited proxies and consents from Relmada's stockholders by means of the False Solicitation that contained statements which, at the time and in light of the circumstances under which they were made, were false and misleading with respect to material facts, and omitted to state material facts necessary in order to make the statements therein not false or misleading.

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39. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and its stockholders are being harmed through the Defendants' use of materially defective proxy and consent solicitations that deprive Relmada's stockholders of fair corporate suffrage and create uncertainty over the corporate governance of the Company.

40. As a result, Relmada's stockholders will be denied the opportunity to make an informed decision in voting on the Company's corporate governance as they otherwise would have if the Defendants' statements in violation of Section 14(a) of the Exchange Act and Rule 14a-9 thereunder are not immediately withdrawn and corrected.

**SECOND CLAIM**

(Injunctive Relief)

41. Relmada incorporates the allegations in the preceding paragraphs as if fully set forth herein.

42. As more fully described in Paragraphs 1 through 35, Defendants made materially false and misleading statements, and omitted to disclose necessary material facts, in the False Solicitation that they filed with the SEC in connection with their proxy and consent solicitation in advance of the Relmada 2015 annual meeting.

43. The uncertainty and delay surrounding the composition and election of Relmada's board of directors caused by Defendants' violations of the federal securities laws has threatened to cause, actually caused, and will continue to cause irreparable harm to Relmada and its stockholders.

44. Relmada is entitled to an injunction requiring that Defendants are enjoined from continuing to disseminate false or misleading proxy materials and requiring them to retract or correct the False Solicitation.

45. Unless Defendants' actions are restrained by temporary and permanent injunctive relief, Relmada will be further irreparably harmed.

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46. The damage Relmada has incurred arising from Defendants' unlawful actions, as set forth above, cannot be quantified in financial terms or remedied in full through the issuance of money damages.

47. Relmada has a reasonable likelihood of success on the merits of its claims against Defendants, and will suffer immediate and irreparable injury if Defendants' violations are permitted to continue.

48. Relmada is entitled to preliminary and permanent injunctions to prevent Defendants from continuing to disseminate false or misleading proxy and consent solicitation materials, and to require Defendants to retract or amend the misrepresentations and omissions in the False Solicitation.

49. Relmada has been forced to retain counsel to prosecute this action and is thus entitled to an award of attorney's fees and costs as provided at law.

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**WHEREFORE** Relmada prays for relief as follows:

1. That the Court enter judgment for Relmada on all Claims of the Complaint;
2. That the Court preliminarily and permanently enjoin Defendants from continuing to disseminate false or misleading proxy and consent solicitation materials, and require Defendants to retract or correct the misrepresentations and omissions in the False Solicitation;
3. For an award of attorney's fees and costs; and
4. For any additional relief this Court deems just and proper.

DATED this 9th day of December, 2015.

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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

**RELMADA THERAPEUTICS, INC.**, a Nevada corporation,

Plaintiff,

v.

**LAIDLAW & COMPANY (UK) LTD.**, a foreign corporation,  
**MATTHEW D. EITNER**, an individual and citizen of New Jersey,  
and **JAMES P. AHERN**, an individual and citizen of New Jersey,

Defendants.

Case No.:

**PLAINTIFF'S MOTION FOR TEMPORARY  
RESTRAINING ORDER WITHOUT NOTICE AND  
PRELIMINARY INJUNCTION**

Plaintiff Relmada Therapeutics, Inc. moves for the entry of a temporary restraining order without notice and preliminary injunction pending the adjudication on the merits of this case.

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This Motion is based upon the accompanying Memorandum of Points and Authorities, the declaration of Sergio Traversa, the exhibits attached to that declaration, and any further evidence and argument this Court chooses to consider.

DATED this 9th day of December, 2015

Respectfully submitted,  
BROWNSTEIN HYATT FARBER SCHRECK, LLP

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**MEMORANDUM OF POINTS AND AUTHORITIES**

This case involves a cut-and-dry violation of the securities laws that govern proxy solicitation statements. Section 14(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and SEC Rule 14a-9, 17 C.F.R. § 240.14a-9, prohibit the filing of materially false and misleading proxy statements with the Securities and Exchange Commission (“SEC”) or the dissemination of other materially false and misleading statements relating to the solicitation of proxies. Defendants Laidlaw & Co. (UK) Ltd. (“Laidlaw”), Matthew D. Eitner, and James P. Ahern (collectively, “Defendants”) have issued false and misleading statements in connection with the annual meeting of stockholders of Relmada Therapeutics, Inc. (“Relmada” or the “Company”) that is scheduled to be held on December 30, 2015.

On December 4, 2015, Defendants issued a press release in which they announced the formation of a “Shareholder Value Creation Committee” that supposedly would “solicit proxies both to elect our [five] director nominees at Relmada’s 2015 annual meeting and also . . . to withhold your vote from counting towards a quorum at Relmada’s 2015 annual meeting.” Declaration of Sergio Traversa (“Traversa Decl.”) ¶ 4, Ex. 1 at 8. On December 7, 2015, Defendants filed their press release on a Schedule 14A. The press release and Schedule 14A (together, the “False Solicitation”) were materially false and misleading because Defendants concealed that they cannot nominate *any* directors for election at the 2015 annual meeting—much less five directors—because they failed to provide timely advance notice of these nominations, as the Company’s bylaws require. *Id.* ¶ 11. Thus, an *ex parte* temporary restraining order is appropriate because Relmada likely will succeed on the merits in this case.

Relmada requires this emergency relief because the Company and its stockholders likely have suffered and will continue to suffer irreparable harm without it. Courts have recognized that uncertainty and delay surrounding the composition and election of a company’s board of directors—which is precisely what Defendants’ present misleading proxy solicitation would achieve—constitutes irreparable harm. Accordingly, this Court should enjoin Defendants from continuing to disseminate false and misleading proxy materials and require them to retract or correct those materials.



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**STATEMENT OF RELEVANT FACTS**

Plaintiff Relmada Therapeutics, Inc. is a clinical stage, publicly traded specialty pharmaceutical company focused on developing novel versions of proven drug products and new chemical entities that potentially address areas of high unmet medical need in the treatment of pain. Traversa Decl. ¶ 1; Complaint (“Compl.”) ¶ 9. Laidlaw and its two principals, Matthew D. Eitner and James P. Ahern, have a historical relationship with the Company that dates back to 2011 when Laidlaw began to serve as Relmada’s investment adviser. Traversa Decl. ¶ 2; Compl. ¶ 10. Laidlaw acted as the Company’s placement agent in its December 2011 and May 2014 offerings, and as its financial adviser in the merger through which Relmada became a public company. Traversa Decl. ¶ 2; Compl. ¶ 10. In connection with these representations, Relmada paid Defendants significant fees and issued them warrants to purchase stock. Traversa Decl. ¶ 3; Compl. ¶ 11. Laidlaw acquired the vast majority of the stock that it beneficially owns in Relmada in the form of warrants for investment banking services that it provided to the Company. Traversa Decl. ¶ 3; Compl. ¶ 11.

Relmada’s 2015 Annual Meeting of Stockholders is scheduled to be held on December 30, 2015. Traversa Decl. ¶ 9; Compl. ¶ 12. On December 4, 2015, Defendants issued a press release announcing the intention of the Shareholder Value Creation Committee<sup>1</sup> to launch proxy and consent solicitations by nominating five directors for election or appointment to Relmada’s board of directors. Traversa Decl. ¶ 4; Compl. ¶ 13. The Press Release was filed with the SEC on Schedule 14A on December 7, 2015. Traversa Decl. ¶ 4; Compl. ¶ 14. The False Solicitation contains at least four categories of material misrepresentations and omissions.

First, the False Solicitation states Defendants’ purported intention “to nominate five highly qualified, independent directors for election or appointment to Relmada’s board of directors.” Traversa Decl. Ex. 1 at 5. It further states that Defendants “intend to file with the Securities and Exchange Commission a proxy statement to solicit proxies both to elect our director nominees at Relmada’s 2015 annual meeting and also seeking authority to withhold your vote from counting towards a quorum at Relmada’s 2015 annual meeting.” *Id.* at 8. The False Solicitation urges Relmada stockholders to “**NOT** return the proxy card sent to [them] by the current Relmada board of directors” and “**NOT** vote by responding to the email solicitations sent to [them] by the current Relmada board of directors.” *Id.* at 9 (emphases in original). Instead, the False Solicitation urges Relmada stockholders “to wait for the Shareholder Value Creation Committee’s consent solicitation and proxy materials” to be sent to them. *Id.* at 5.

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<sup>1</sup> The False Solicitation notes that the participants in the proxy solicitation and consent solicitation by the Shareholder Value Creation Committee will include the Defendants in this action—Laidlaw, Matthew D. Eitner, and James P. Ahern.

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These statements are materially false in that it is an impossibility for Defendants to nominate candidates for election at the 2015 annual meeting, because Defendants *unequivocally missed the advance notice deadline* for such stockholder nominations. Under Section 2.1(b)(iv) of the bylaws, stockholders must provide notice of the proposed nomination no later than 120 days prior to the anniversary of the preceding year's annual meeting:

To be timely, a stockholder's notice shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the *one hundred twentieth (120th) day* and not earlier than the close of business on the one hundred fiftieth (150th) day *prior to the first anniversary of the preceding year's annual meeting*; provided, however, that in the event that the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder, to be timely, must be so delivered not later than the later of the close of business on the one hundred twentieth (120th) day prior to such annual meeting and the tenth (10th) day following the day on which notice of the date of such meeting is first given to the stockholders, and not earlier than the close of business on the one hundred fiftieth (150th) day prior to such annual meeting.

Traversa Decl. ¶ 5, Ex. 2 § 2.1(b)(iv) (emphasis added). Because Relmada's 2014 annual meeting was held on December 18, 2014, the deadline to submit nominations for the 2015 annual meeting was August 20, 2015. Traversa Decl. ¶ 8; Compl. ¶ 20. Relmada did not receive notice of any nominations from Defendants by August 20, 2015. Traversa Decl. ¶ 11; Compl. ¶ 20. Relmada's Board of Directors provided for this deadline in accordance with Relmada's articles of incorporation, which state that "[t]he board of directors is expressly granted the exclusive power to make, amend, alter, or repeal the bylaws of the corporation pursuant to NRS 78.120."<sup>2</sup> Traversa Decl. Ex. 3 at 8, Art. VI.

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<sup>2</sup> NRS 78.120 in turn provides that "the directors may make the bylaws of the corporation" and "[t]he articles of incorporation may grant the authority to adopt, amend or repeal bylaws exclusively to the directors."

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Second, Defendants mislead Relmada's stockholders because they purport to nominate "five, highly qualified, independent directors for election" at the 2015 meeting to Relmada's board of directors. Traversa Decl. Ex. 1 at 5. Defendants do not disclose, however, that *there are only two seats up for election* on Relmada's board at the 2015 annual meeting. Traversa Decl. ¶ 12. Relmada has a classified or "staggered" board of directors, meaning that only a certain number of director positions stand for election or re-election at each annual meeting of stockholders. *Id.* In February 2015, Relmada's articles of incorporation were amended—pursuant to board approval and a vote of a majority of stockholders at the 2014 annual meeting—to provide for a staggered board of directors, in accordance with NRS 78.330(2).<sup>3</sup> *Id.* Ex. 3 at 19-20. The amendment expressly provides for the terms of the incumbent directors and how and when subsequent director elections will be effected:

In order to implement a staggered board of directors, Class I shall serve a twelve (12) month term from the date of the 2014 annual shareholders meeting; Class II shall serve a twenty four (24) month term from the date of the 2014 annual shareholders meeting; and Class III shall serve a thirty-six (36) month term from the 2014 annual shareholders meeting. Directors elected at each annual meeting commencing in 2015 shall be elected for a 3 year term as specified above.

*Id.* at 19-20.

Third, the False Solicitation states Defendants' intention "to file a consent solicitation seeking [stockholders'] consent [] to expand Relmada's board of directors and appoint certain of our director nominees to fill the newly created seats." *Id.* Ex. 1 at 8. But they cannot expand the board. Nevada law provides that "[a] corporation . . . may provide in its articles of incorporation or in its bylaws for a fixed number of directors or a variable number of directors, and for the manner in which the number of directors may be increased or decreased." NRS 78.115. Under the Company's articles of incorporation, "[t]he number of directors may be changed from time to time in such manner as shall be provided in the bylaws of the Corporation." Traversa Decl. Ex. 3 at 7, Art. IV § 1. Section 3.1 of the Company's bylaws in turn states that the Board of Directors has the sole authority to set the size of the Board: "The number of directors who shall constitute the whole board shall be such number not less than one (1) and not more than nine (9) *as the Board of Directors shall at the time have designated.*" *Id.* Ex. 2, § 3.1 (emphasis added).

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<sup>3</sup> NRS 78.330(2) provides: "The articles of incorporation or the bylaws may provide for the classification of directors as to the duration of their respective terms of office or as to their election by one or more authorized classes or series of shares, but at least one-fourth in number of the directors of every corporation must be elected annually. If an amendment reclassifying the directors would otherwise increase the term of a director, unless the amendment is to the articles of incorporation and otherwise provides, the term of each incumbent director on the effective date of the amendment terminates on the date it would have terminated had there been no reclassification."

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Fourth, the False Solicitation cites a number of corporate actions taken by Relmada's current Board and its stockholders and states that these actions are "intended to entrench" the Board:

- staggering the board of directors into three classes;
- appointing new directors to the board without shareholder approval and after the expiration of Relmada's advance notice deadline . . . ;
- revising Relmada's bylaws to eliminate the shareholders' right to amend the bylaws and to provide that the bylaws can be amended only by Relmada's board of directors;
- reducing the quorum required for the Relmada's [sic] annual meeting from a majority to 34%; and
- establishing Nevada as the exclusive forum for litigation involving Relmada, its directors, and shareholders.

Traversa Decl. Ex. 1 at 6. The Board and stockholders took all these actions under the Company's articles of incorporation, bylaws, and Nevada law:

- **Staggered board.** As described above, staggering the board of directors into three classes is expressly permitted by NRS 78.330(2) and the Company's articles of incorporation were properly amended—with stockholder approval—to implement a staggered board.
- **Appointment of new directors.** Relmada's Board appointed new directors to the Board pursuant to applicable Nevada law and its bylaws. *See* NRS 78.335(5).<sup>4</sup> In addition, the advance notice deadline is applicable only to **stockholder** nominations for the election of directors. *See* Traversa Decl. Ex. 2, § 2.1(b)(iv).
- **Revision of bylaws.** The Company revised the bylaws to correct a clerical error and confirm an existing (and superseding) provision in the Company's charter. NRS 78.120(1)-(2) state that a board of directors has "full control over the affairs of the corporation" and "may make the bylaws of the corporation." Under this statute, "the directors may adopt, amend or repeal any bylaw" and the articles of incorporation may grant the directors exclusive authority to adopt, amend, or repeal bylaws, as Relmada's articles of incorporation do (and did prior to the correction in the bylaws amendment).

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<sup>4</sup> "All vacancies, including those caused by an increase in the number of directors, may be filled by a majority of the remaining directors, though less than a quorum, unless it is otherwise provided in the articles of incorporation."

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- **Reducing the quorum.** Under Nevada law, the articles of incorporation or bylaws of a corporation may “provide for different proportions” with respect to what constitutes a quorum, including a standard for quorum that is less than a majority of the outstanding voting power. *See* NRS 78.320. As described above, it is within the Board’s power to make the bylaws of the corporation.
- **Nevada as exclusive forum.** As described above, it is within the Board’s power to adopt, amend, or repeal the bylaws of the corporation. Moreover, forum selection bylaws requiring exclusive jurisdiction have been upheld by Delaware courts and subsequently codified in the Delaware General Corporation Law. 8 Del. C. § 115.

**ARGUMENT**

The Court should enter a temporary restraining order maintaining the status quo of lawful actions by enjoining Defendants from continuing to disseminate false and misleading proxy materials and to correct the ongoing harm by requiring Defendants to retract or correct the False Solicitation. Such a restraining order will prevent the irreparable harm that will continue to result if the False Solicitation is not corrected and the confusion that would result if Relmada’s stockholders proceed either to cast their votes for the Defendants’ purported “nominees” for election to the Board or withhold their vote from counting towards a quorum at the annual meeting, as Defendants urge. The Company will suffer irreparable harm in the form of uncertainty over its Board composition and delay in the appointment of qualified directors.

**A. Relmada Is Entitled To A Temporary Restraining Order And Preliminary Injunction.**

A temporary restraining order and preliminary injunction are warranted where the moving party demonstrates that (1) it is likely to succeed on the merits; (2) it will suffer irreparable harm if injunctive relief is not granted; (3) the balance of equities tips in its favor; and (4) granting the injunction is in the public interest. *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 877 (9th Cir. 2009) (quoting *Winter v. Natural Res. Def. Council, Inc.*, 129 S. Ct. 365, 374 (2008)); *see also Global Horizons, Inc. v. U.S. Dept. of Labor*, 510 F.3d 1054, 1057 (9th Cir. 2007). Here, Relmada is entitled to a temporary restraining order and preliminary injunction under the four-factor test.

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1. Relmada is Likely to Succeed on the Merits of Its Exchange Act Claim.

Section 14(a) of the Exchange Act applies to any person who “solicit[s] or permit[s] the use of his name to solicit any proxy or consent or authorization in respect of any security,” 15 U.S.C. § 78n(a)(1), just as Defendants did here in connection with the False Solicitation.<sup>5</sup> SEC Rule 14a-9 provides that “[n]o solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading . . . .” 17 C.F.R. § 240.14a-9(a). A claim under Section 14(a) and SEC Rule 14a-9 requires “(1) a proxy statement [that] contained a material misrepresentation or omission which (2) caused the plaintiff injury and (3) that the proxy solicitation itself, rather than the particular defect in the solicitation materials, was an essential link in the accomplishment of the transaction.” *Tracinda Corp. v. DaimlerChrysler AG*, 502 F.3d 212, 228 (3d Cir. 2007) (citation omitted); *see also N.Y.C. Emps.’ Ret. Sys. v. Jobs*, 593 F.3d 1018, 1022 (9th Cir. 2010) (same) (*overruled on other grounds by Lacey v. Maricopa Cnty.*, 693 F.3d 896 (9th Cir. 2012)). Here, Relmada is likely to succeed on the merits because the False Solicitation contains four sets of material misstatements and omissions that caused and, if not enjoined, will continue to cause irreparable injury to Relmada and its stockholders.<sup>6</sup>

For purposes of false and misleading statements in proxy solicitations, “[a]n omitted fact is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote.” *TSC Indus., Inc. v. Northway*, 426 U.S. 438, 449 (1976). Board election procedures must be followed and the failure to do so—and the failure to disclose that to stockholders—is material and likely to confuse stockholders about voting rights. *See Calumet Indus., Inc. v. MacClure*, 464 F. Supp. 19, 27 (N.D. Ill. 1978) (finding a misstatement material where it “concerned the very nature of the consent procedure itself” and “might have confused shareholders as to their voting rights”). Where proxy statements contained materially misleading representations and omissions, courts have not hesitated to enjoin the solicitation and order that the proxy be resubmitted and the omitted information fully disclosed. *See, e.g., United Paperworkers Int’l Union v. Int’l Paper Co.*, 985 F.2d 1190, 1202 (2d Cir. 1993) (affirming order enjoining company to resubmit stockholder proposal at next year’s annual meeting); *Krauth v. Executive Telecard, Ltd.*, 890 F. Supp. 269, 292 (S.D.N.Y. 1995) (enjoining the solicitation of proxies until the required omitted material information was fully disclosed).

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<sup>5</sup> Section 14(a) does not require a showing of scienter or other “culpable intent.” *In re Exxon Mobil Corp. Sec. Litig.*, 500 F.3d 189, 196 (3d Cir. 2007); *see also In re McKesson, HBOC Sec. Litig.*, 126 F. Supp. 2d 1248, 1263 (N.D. Cal. 2000) (“[T]he weight of authority rejects a scienter standard for claims under Section 14.”).

<sup>6</sup> The injury is described in Section 2 below. Furthermore, the False Solicitation is an “essential link” in the transaction at issue—*i.e.*, the election of directors—because these solicitations link the defendants’ proposed election of directors “with the votes legally required to authorize the action proposed.” *Va. Bankshares, Inc. v. Sandberg*, 501 U.S. 1083, 1102 (1991). In other words, Defendants’ solicitations would be a direct cause of the election proposed therein.

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Here, the False Solicitation requested that Relmada stockholders refrain from submitting their proxy in anticipation of a proxy filing by the Shareholder Value Creation Committee: “[W]e intend to file with the Securities and Exchange Commission a proxy statement to solicit proxies both *to elect our director nominees at Relmada’s 2015 annual meeting* and also seeking authority to withhold your vote from counting towards a quorum at Relmada’s 2015 annual meeting.” Traversa Decl. Ex. 1 at 8 (emphasis added). In the False Solicitation, the Defendants falsely state that they have nominated directors for election at the 2015 annual meeting—which they have not done and cannot do at this time—and omits to inform stockholders that the Defendants failed to comply with the advance notice provisions in the Company’s bylaws.

As described above, Relmada’s bylaws set forth the procedures to be followed if a stockholder intends to bring business before an annual meeting of stockholders, including a stockholder nomination of any individuals for election as a director. *See supra* at 3-4. Because Relmada’s 2014 annual meeting was held on December 18, 2014, the deadline to submit nominations for the 2015 annual meeting was August 20, 2015. Traversa Decl. ¶ 7-8; Compl. ¶ 20. The Defendants did not provide notice of their intention to submit nominees for election to the Board of Directors at the 2015 annual meeting until December 4, 2015, less than 30 days before the meeting was scheduled to take place. Traversa Decl. ¶ 10, Ex. 1 at 5. Defendants have not complied with the timing and other requirements of the advance notice provisions—which apply to director nominations by all stockholders—and thus, the purported “nominees” for which they encourage Relmada’s stockholders to vote are, in fact, ineligible to serve as directors and cannot stand for election at the 2015 annual meeting.<sup>7</sup> The False Solicitation falsely suggests that its purported “nominees” will be eligible for election at the 2015 annual meeting and omits the material fact that the nominations are fatally defective under Relmada’s validly adopted and effective bylaws requirements.

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<sup>7</sup> *See* Traversa Decl. Ex. 2 § 2.1(b)(iv).

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The Defendants likewise mislead stockholders into believing that more than two directors, namely their five purported nominees, could be elected at the 2015 annual meeting, even though the company's articles of incorporation (approved by stockholders) stagger the board of directors such that only two directors are up for election at the 2015 annual meeting.<sup>8</sup> The False Solicitation indicates that Defendants will be soliciting proxies to "to elect our director nominees at Relmada's 2015 annual meeting" and purports to set forth five nominees for election, all while omitting the material fact that only two board seats are open for election at the 2015 Annual Meeting. Traversa Decl. Ex. 1 at 8. In accordance with the amendment approved by the Company's stockholders, only two directors can stand for election at the 2015 Annual Meeting—another material fact that Defendants omit in the False Solicitation when they falsely seek support for the election of five purported "nominees." See Traversa Decl. Ex. 3 at 19-20. And Defendants cannot, contrary to their assertion in the False Solicitation, "expand Relmada's board of directors." Traversa Decl. Ex. 1 at 8. As the Company's articles of incorporation provide, "[t]he number of directors may be changed from time to time in such manner as shall be provided in the bylaws of the Corporation." Traversa Decl. Ex. 3 at 8, Art. VI. The bylaws give the Relmada directors sole authority to set the Board's size.<sup>9</sup> *Id.* Ex. 2, § 3.1.

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<sup>8</sup> Maged Shenouda and Paul Kelly were appointed by the board on November 12, 2015 to fill the two vacancies left by the board's expansion to six members and the resignation of Dr. Nabil Yazgi, who was Laidlaw's prior board nominee and resigned due to his failure to disclose litigation against him. Traversa Decl. ¶ 13. Pursuant to NRS 78.335(5), the board has the authority to fill vacancies: "All vacancies, including those caused by an increase in the number of directors, may be filled by a majority of the remaining directors, though less than a quorum, unless it is otherwise provided in the articles of incorporation." Relmada's articles of incorporation do not otherwise provide. Maged Shenouda, as a Class I director, is standing for election at the 2015 Annual Meeting. *Id.* ¶ 14.

<sup>9</sup> Under Nevada law, stockholders cannot unilaterally amend a corporation's articles of incorporation. See NRS 78.390(1)(a).



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Furthermore, the False Solicitation contains a laundry list of valid actions taken by the Board and the stockholders and inaccurately labels them as attempts at “entrenchment.” The actions listed in the False Solicitation, however, all were appropriate for the Board to take under the Company’s articles of incorporation, bylaws, and Nevada law. *See supra* at 5-6. Defendants’ attempts to paint these legitimate corporate actions as “entrenchment” are a further instance of Defendants making misleading statements to stockholders in an attempt to improperly solicit proxies and consents.<sup>10</sup> For example, the False Solicitation refers to the amendment to the articles of incorporation to create a staggered board as an example of the current Board and management’s attempt to “entrench themselves.” Traversa Decl. Ex. 1 at 6. Defendants ignore the fact that this amendment was enacted in February 2015 pursuant to Board approval *and a vote of the majority of all outstanding shares*. Compl. ¶ 31. This action and the amendment were in accordance with NRS 78.330(2), which provides that a Company’s articles of incorporation “may provide for the classification of directors as to the duration of their respective terms of office or as to their election by one or more authorized classes or series of shares,” provided that at least one-fourth are elected annually.

For Defendants to claim the Board’s legitimate actions constitute “entrenchment” also ignores established Nevada law, which defers to the business judgment of the board of directors. Nevada law has codified the “business judgment rule,” even in the context of a proposed or potential change of control, as long as the Board’s actions do not impede the exercise of the stockholders’ franchise. *See* NRS 78.139(1)(b).<sup>11</sup> Here, it is Defendants that are attempting to impede the stockholders’ right to elect directors by seeking to thwart or otherwise materially delay the election of qualified directors under the Company’s governing documents and applicable law. *See* Traversa Decl. Ex. 1 (seeking stockholders’ authority to withhold their votes from counting towards a quorum at the 2015 annual meeting and purporting to nominate directors for election without complying with the advance notice requirement of the Company’s bylaws).

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<sup>10</sup> In addition to section 14(a), Defendants have violated Section 13(d) of the Exchange Act, 15 U.S.C. § 78m(d). As Relmada has notified the SEC, Laidlaw’s Schedule 13D was filed excessively late—a full 100 days after Laidlaw acquired beneficial ownership of more than five percent of Relmada’s stock, where Section 13(d) requires a Schedule 13D to be filed within ten days of that event—and Laidlaw’s disclosure of the number of shares of the Company’s common stock beneficially owned is “materially misleading,” because Laidlaw did not disclose if or when it could or did exercise certain warrants in advance of filing its Schedule 13D. *Chevron Corp. v. Pennzoil Co.*, 974 F.2d 1156, 1161 (9th Cir. 1992).

<sup>11</sup> NRS 78.139(1)(b) provides that “directors and officers, in connection with a change or potential change in control of the corporation, have . . . [t]he benefit of the presumptions established by subsection 3 of NRS 78.138,” which in turn provides that “[d]irectors and officers, in deciding upon matters of business, are presumed to act in good faith, on an informed basis and with a view to the interests of the corporation.”

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2. Relmada Has Suffered And Is Likely To Continue To Suffer Irreparable Harm Absent Preliminary Relief.

Under Federal Rule of Civil Procedure 65, irreparable harm occurs when “money damages alone will not suffice to restore the moving party to its rightful position.” *Clark Pac. v. Krump Constr., Inc.*, 942 F. Supp. 1324, 1346 (D. Nev. 1996). Following the United States Supreme Court’s decision in *Winter*, 555 U.S. at 22, the Ninth Circuit requires a plaintiff seeking a preliminary injunction to establish that it is “likely” to suffer irreparable harm. *See, e.g., Marlyn Neutraceuticals*, 571 F.3d at 877.

“Section 14(a) and Rule 14a-9 . . . require that officials divulge all known material facts so that shareholders can make informed choices.” *Desaigoudar v. Meyercord*, 223 F.3d 1020, 1024 (9th Cir. 2000). This is because, as Delaware’s Supreme Court has held, shareholder voting rights are “sacrosanct.” *EMAK Worldwide, Inc. v. Kurz*, 50 A.3d 429, 433 (Del. 2012). Those sacrosanct rights would be imperiled by Defendants’ False Solicitation, under which Relmada’s stockholders either may refrain from voting (preventing the Company from reaching a quorum for its annual meeting) or cast their votes for Defendants’ nominees (who are ineligible for election). Thus, the Company will suffer irreparable harm in the form of uncertainty over its Board composition and delay in the appointment of qualified directors. *See Salamone v. Gorman*, C.A. No. 9870-VCN, 2014 WL 3905598, at \*2 (Del. Ch. July 31, 2014) (granting a status quo order in part because the company and its shareholders “would be irreparably harmed by the uncertainty concerning the composition of its legitimate board of directors”); *Krauth*, 890 F. Supp. at 287 (“Irreparable injury results from the use of false and misleading proxies when the free exercise of the shareholders’ voting rights will be frustrated.”).

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Such a result likely would impair the daily function of Relmada's business and its business relationships, which are injuries that are not susceptible to monetary calculation. *See, e.g., Morris v. Bush*, 1999 WL 58857, at \*3 (N.D. Tex. Jan 28, 1999) (noting that absent injunctive relief plaintiffs would suffer "irreparable injury includ[ing] substantial and irreparable changes in [the company's] business relationships" and granting preliminary injunction restraining defendants from holding a stockholder meeting without proper filing of a proxy statement); *Edelman v. Salomon*, 559 F. Supp. 1178, 1189 (D. Del. 1983) ("U]se of a [proxy] solicitation which is materially misleading poses the kind of irreparable injury to stockholders which can justify injunctive relief prior to a shareholders' meeting."). Monetary damages would not remedy the harm to the Company by the obstacle the misleading proxy statement will create with respect to stockholders' right to vote and the subsequent effect on the functioning of the Company if ineligible directors are improperly elected.

3. The Balance of Hardships Tips in Favor of Relmada.

The balance of hardships favors the issuance of a temporary restraining order here. If no restraining order or injunction is imposed to require Defendants to withdraw and resubmit their False Solicitation, Relmada will suffer a degree of hardship that outweighs the hardship facing the opposing parties. *See Topanga Press, Inc. v. City of L.A.*, 989 F.2d 1524, 1528 (9th Cir. 1993) (requiring a party seeking an injunction to "show that he will suffer a degree of hardship that outweighs the hardship facing the opposing party if the injunction is not issued"), *cert. denied*, 511 U.S. 1030 (1994). The right of Relmada's stockholders to vote for qualified directors will be directly impacted, and an improper vote will hold up the election of qualified directors resulting in uncertainty over the corporate governance of the Company. *Cf. Dillon v. Scotten, Dillon Co.*, 335 F. Supp. 566, 571 (D. Del. 1971) (statements made by defendants in proxy materials regarding directors who were illegally elected to office were materially misleading). Uncertainty over the composition of the Board of Directors could have dire consequences for the ability of the Company to carry out its business. *See Salamone*, 2014 WL 3905598, at \*2.

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In contrast, Defendants suffer little or no harm should Relmada be granted the relief requested. Indeed, the requested relief will simply require Defendants to comply with their obligations under Section 14(a) and Rule 14a-9, in addition to the Company's governance documents and Nevada law. *See, e.g., Mills v. Elec. Auto-Lit Co.*, 396 U.S. 375, 383 (1970) ("Use of a solicitation that is materially misleading is itself a violation of law, as the Court of Appeals recognized in stating that injunctive relief would be available to remedy such a defect if sought prior to the stockholders' meeting."); *see also Allergan, Inc. v. Valeant Pharms. Int'l, Inc.*, 2014 WL 5604539, at \*16 (C.D. Cal. Nov. 4, 2014) (requiring defendants to make corrective disclosure to proxy solicitation: "If the Court orders corrective disclosures, Defendants would only incur the expense of making those disclosures."). To that end, the temporary restraining order that Plaintiff seeks would simply preserve the status quo pending a determination on whether Defendants' proxy materials contain material misrepresentations and omissions in violation of Section 14(a) of the Exchange Act and Rule 14a-9.

4. Granting a Temporary Restraining Order and Preliminary Injunction Will Serve the Public Interest.

The relief Relmada seeks here is narrowly tailored to prevent a misinformed stockholder vote on the basis of misleading proxy solicitation and to restore the voting rights guaranteed to Relmada's stockholders by the Exchange Act and Nevada law. As other courts have determined in the context of a misleading proxy solicitation, "[a]n injunction ordering corrective disclosures is also in the public interest, as it prevents an uninformed shareholder vote." *Allergan*, 2014 WL 5604539, at \*16. The same is true here.

**B. The Restraining Order Should Issue Without Notice.**

Pursuant to Fed. R. Civ. P. 65(b)(1) and Local Rule 7-5, this Court may issue a restraining order without notice to the adverse party under certain circumstances. Those circumstances are present in this case. First, Relmada's 2015 annual meeting is scheduled to take place on December 30, 2015, which means there is limited time for notice. Second, the irreparable harm that is currently occurring and will continue to occur is evident. Defendants are currently disseminating false and misleading information to stockholders. Through their actions, Defendants are directly affecting the right of Relmada's stockholders to vote for legitimate director nominees in advance of the 2015 annual meeting and threatening Relmada with imminent irreparable harm in the form of uncertainty over its Board composition through delay in the election of properly nominated and qualified directors. In these circumstances, issuing a temporary restraining order without notice is warranted. Although such circumstances are present in this case, Relmada is sending a copy of these papers to counsel for Defendants via email today.

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**C. The Court Should Require Only Nominal Security.**

In the event that the Court requires Relmada to post a bond or other security, Relmada requests that the Court set an amount that is no greater than \$500. Plaintiff is a well-established Nevada corporation. During the pendency of this litigation, an order maintaining the status quo by enjoining Defendants from continuing to disseminate false and misleading proxy materials will not be harmful to Defendants or the public. A nominal sum therefore will serve as more than adequate security for the issuance of the requested temporary restraining order in this case.

**CONCLUSION**

Based on the foregoing points and authorities, the declaration of Sergio Traversa, and the exhibits attached to that declaration, Relmada requests that the Court grant its application for a temporary restraining order on the terms set forth in the proposed order and grant a preliminary injunction pending adjudication on the merits.

DATED this 9th day of December, 2015

Respectfully submitted,

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