DELCATH SYSTEMS INC Form DFAN14A September 22, 2006

UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

SCHEDULE 14A INFORMATION

Consent Solicitation Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant o Filed by a Party other than the Registrant \boldsymbol{x}

Check the appropriate box:

- o Preliminary Proxy Statement
- o Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- o Definitive Proxy Statement
- x Definitive Additional Materials
- o Soliciting Material Pursuant to §240.14a-12

DELCATH SYSTEMS, INC. (Name of Registrant as Specified In Its Charter)

ROBERT B. LADD
JONATHAN A. FOLTZ
MICHAEL KARPF, M.D.
PAUL WILLIAM FREDERICK NICHOLLS
FRED S. ZEIDMAN
LADDCAP VALUE ASSOCIATES LLC
LADDCAP VALUE PARTNERS LP

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

x No fee required.

o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies: N/A
 (2) Aggregate number of securities to which transaction applies: N/A

(3)

Per unit price or other underlying value of transaction computed pursuant to Exchange

Act Rule

0-11 (set forth the amount on which the filing fee is calculated and state how it was

determined): N/A

(4) Proposed maximum aggregate value of transaction: N/A

(5) Total fee paid: N/A

o Fee paid previously with preliminary materials.

o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing:

(1) Amount previously paid: N/A

(2) Form, Schedule or Registration Statement No.: N/A

(3) Filing party: N/A (4) Date Filed: N/A

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT Thurgood Marshall U.S. Courthouse at Foley Square 40 Centre Street, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s):	Not yet assigned; District Court <u>Docket No.</u> 06-cv-6420	[use short title] Caption
EMERGENCY Motion for:	Modification of Temporary Restraints and Immediate Temporary Remand to <u>District</u>	Robert Ladd, et al., Defendants-Appellants,
:	Court	. VS.
sought: Appellants move interim restraints Appellants by pershareholder consists registered agent processed ag	for an emergency order (i) modifying entered by the District Court against rmitting Appellants to deliver written ents they have collected to Appellee or bursuant to Delaware General (c) by September 25, 2006, thereby gal viability of the shareholder vote oletion of further proceedings in this It Court on remand, and (ii) temporarily use to the District Court for a plenary lee's application for entry of a simmediately followed by further is Court should the District Court grant toole or in	Delcath Systems, Inc., Plantiff - Appellee.
PARTYLaddcap Value Partners Laddcap Value Advisors	LP,	ms, Inc.
and Lado Value	dcap	

<u>Associates</u>		
LLC.		

" PlaintiffDefendant

X Appëllant/Relicti/Respondent

OPPOSING ATTORNEY: MOVING

ATTORNEY: [name of attorney, with firm, address, phone number and e-mail]

[name of attorney,

with firm, address, phone number and

e-mail]

Steven M. Hecht, Adam H. Offenhartz,

Esq. Esq.

Lowenstein

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shecht@lowenstein.com

Court-Judge/hAtechStates District Court for the Southern District of New York, Hon. Loretta A. Preska,

appealed <u>U.S.D.J.</u>

from:

Please check FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS

AND INJUNCTIONS PENDING APPEAL: appropriate

boxes:

Has consent Has request for relief been made **below?** X Yes " No

of opposing

counsel: Has this relief been previously sought

in this Court? " Yes X No A. been

sought?

Requested return date and explanation of emergency:

Yes X No Requested return date: Monday, September 25, 2006

B. been

obtained?

Yes X No.

Is **oral argument**

requested: X

Yes "No (requests for oral argument will not

necessarily be granted)

18104/4

09/21/2006 2019181.01

Has argument date of appe Yes X No	al been se	t? "	consent solicitation campaidirectors of Appellee, a publication organized under Delaware In process must be completed Accordingly, the window of provide meaningful relief to by the District Court on Seplimited. The District Court's extended a TRO which probabilities and a TRO which probabilities agent. Under § 2: Corporation Law, if Appell the close of business on Sepdays from the date of this in become null and void, and a nullity. Once the statutory power to undo that result unemergency relief is necessathe shareholders' decision in decision for the benefit of very suppose the statutory of the shareholders' decision in decision for the benefit of very suppose the statutory of the shareholders' decision in decision for the benefit of very suppose the shareholders' decision in decision for the benefit of very suppose the shareholders' decision in decision for the benefit of very suppose the shareholders' decision in the sh	of time within which this Court can of Appellants from an Order entered optember 20, 2006 is extremely as September 20, 2006 Order whibits Appellants from delivering this in its possession to Appellee's 28(c) of the Delaware General ants fail to deliver the consents by the ptember 25, 2006 less than four motion the written consents will the shareholder vote will be rendered and deadline passes, no Court has the moder Delaware law. Accordingly, any to prevent the irretrievable loss of an this election and to preserve that whichever party proves to be the
If ves. enter date			winner in the consent solici	nation Campaign.
Signature of Moving Attorney:				
21, 2006	Date:	September	Has service been effected? [Attach proof of service]	X Yes "No
			ORDER	
IT IS HEREBY ORDER GRANTED DENIE		Γ the motion	is	
				FOR THE COURT: ROSEANN B. MacKECHNIE, Clerk of the Co
Date:				By:
Form T-1080 (Revised 10/	31/02).			