

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AREN FOX LLP,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:21-cv-01345-CRC
)	
OHEMO LIFE SCIENCES, INC.,)	
)	
Defendant.)	
_____)	

RESPONSE TO SHOW CAUSE ORDER

Arent Fox LLP (“Plaintiff” or “Arent Fox”), through counsel, hereby files this Response to the Court’s Minute Order to Show Cause of August 18, 2021 (the “Show Cause Order”), requiring Plaintiff to show cause why it did not timely effectuate service of the Complaint upon Ohemo Life Sciences, Inc. (“Defendant” or “Ohemo”).

RELEVANT FACTUAL BACKGROUND

1. On May 17, 2021, Plaintiff filed its Complaint. *See* ECF No. 1. One week later, on May 24, 2021, counsel for Plaintiff prepared and sent via mail a Notice of Lawsuit and Request to Waive Service of Summons of the Complaint (the “First Waiver Request”) to Arthur Deboeck, Ohemo’s President. *See* Declaration of Jackson D. Toof (the “Toof Declaration”), attached hereto as **Exhibit (1)**, and **Ex. B** thereto (email to Mr. Deboeck dated May 24, 2021, transmitting the First Waiver Request, along with the attachments to that email). Counsel for Plaintiff also caused the First Waiver Request to be sent to Defendant via Certified U.S. Mail. *See id.*

2. Defendant is located within a judicial district of the United States (*i.e.*, Puerto Rico), therefore, it had thirty (30) days—until June 23, 2021—to sign and return the First Waiver Request to Plaintiff.

3. On June 17, 2021, Mr. Deboeck on behalf of Defendant sent a letter (the “June 17 Letter”) via email to counsel for Plaintiff, stating that he had received the First Waiver Request and desired to open a dialogue regarding possible resolution of the dispute. *See* Toof Decl. ¶ 3 and **Ex. C** thereto (Ohemo response letter dated June 17, 2021, stating: “We received a Notice for a Lawsuit and Request to Waive Service of a Summons regarding a complaint against Ohemo Life Sciences, Inc. for legal fees and expenses supposedly owed to Arent Fox.”). At this point, counsel for Plaintiff had no reason to think Defendant would not return the waiver as requested. *See id.* ¶ 4.

4. On June 30, 2021, counsel for Plaintiff sent a letter in response to the June 17 Letter (the “June 30 Letter”) via email. *See* Toof Decl. ¶ 5 and **Ex. D** thereto (noting that Plaintiff also desires an amicable resolution of the dispute). Then, on July 20, 2021, counsel for Plaintiff received an email in response to the June 30 Letter from a representative of Defendant, inviting a further discussion concerning potentially resolving the dispute. Mr. Deboeck, President of Ohemo, was copied on the email. *See id.* ¶ 6 and **Ex. E** thereto. At this point, counsel for Plaintiff engaged in good faith discussions with Defendant over both email and telephone concerning trying to resolve the issues raised in the Complaint. *See id.*

5. In between the June 30 Letter and the email response from Defendant’s representative on July 20, on July 6, 2021, a heavily-damaged envelope addressed to Ohemo was returned to Arent Fox with a “Return to Sender” and “Unable to Forward” label on the front, dated June 17, 2021. Moreover, the copy of the Complaint within the envelope appeared to be soaked with water. *See* Toof Decl. ¶ 7 and **Ex. F** thereto (images of envelope and Complaint). In light of the returned package, it appeared Defendant did not receive the envelope containing the Notice of a Lawsuit and Request to Waive Service of a Summons, the Waiver of the Service of Summons,

or the Complaint via U.S. Mail, but had received it via email from counsel for Plaintiff on May 24, 2021, as those documents were referenced in the June 17 Letter. *See id.* Because Defendant at this time had not returned the First Request that it acknowledged in its June 17 Letter it received, and in light of the damage to the initial mailing, Plaintiff had no choice but to mail an entirely new package of materials, including a Second Notice of Lawsuit and Request to Waive Service of a Summons (the “Second Request”). The Second Request, along with a copy of the Waiver of Service of Summons and the Complaint, was sent via Certified U.S. Mail on July 8, 2021.

6. From July 20, 2021 to present, counsel for Plaintiff has been in regular contact with a representative for Defendant via email and telephone to discuss the issues raised in the Complaint in an effort to resolve this dispute. *See Toof Decl.* ¶ 8.

7. Upon receipt of the Court’s Show Cause Order on August 18, 2021, counsel for Plaintiff immediately contacted the representative for Defendant to discuss whether Defendant remained agreeable to executing a waiver, which Mr. Deboeck did on Defendant’s behalf on August 20, 2021. *See Toof Decl.* ¶ 9. In an abundance of caution, given the delayed receipt of the First Request and the subsequent re-mailing of the Second Request, counsel for Plaintiff requested that Mr. Deboeck execute both the First Request (since Defendant had received it timely) as well as a new waiver dated August 18, 2021 (the “Third Request”).¹ *See id.* and **Exs. A and G** thereto (copies of executed waivers of service).

**GOOD CAUSE EXISTS TO PRECLUDE DISMISSAL
WITHOUT PREJUDICE OF ARENT FOX’S CLAIMS**

8. Plaintiff did not receive a timely executed waiver from Defendant within the 30-day timeframe in the First Request or the Second Request, nor was Defendant formally served

¹ Sixty (60) days from August 18, 2021 is Sunday, October 17, 2021.

within 90 days as required by Rule 4 of the Federal Rules of Civil Procedure. However, Plaintiff respectfully submits that good cause exists for not formally serving Defendant within 90 days because it has shown due diligence and a valid reason for the delay, and Defendant has now executed a waiver of service. *See Ex. A.*

9. Plaintiff timely sent the First Request on May 24, 2021. Although the package sent via Certified U.S. Mail was damaged in transit and returned to Arent Fox on July 6, Defendant acknowledged in its June 17 Letter receipt of the First Request yet did not return the executed waiver of service prior to the 30-day deadline of June 23, 2021.

10. Then, in light of Defendant not returning the executed waiver of service timely and the damaged packaged being returned to Arent Fox, there was some confusion as to what Defendant received and when. To clear things up, counsel for Plaintiff attempted to remedy the problems with the First Request by transmitting the Second Request.

11. Following the Second Request, and the initial exchanges of letters between the President of Ohemo and counsel for Plaintiff, counsel for Plaintiff and a representative for Defendant engaged in regular, productive conversations. *See Toof Decl.* ¶ 10. Indeed, the parties have already made progress in their negotiations regarding some of the facts in dispute and continue to work toward resolving the issues. *See id.* Defendant remained amenable to waiving service, evinced by its execution of both the original May 24 waiver (*i.e.*, the First Request) and the waiver dated August 20, 2021 (*i.e.*, the Third Request), and has consistently indicated its willingness to cooperate with Plaintiff. *See id.* In other words, Plaintiff has continued to diligently pursue a resolution despite the lack of formal service. *See id.* Simply put, this is not a case in which a plaintiff filed a lawsuit to harass or intimidate, or which is adversely affecting judicial

economy due to plaintiff's failure to prosecute. It remains Plaintiff's hope that this case can be resolved without any substantial, future judicial involvement.

12. Thus, Plaintiff respectfully submits that not obtaining and filing a timely waiver from Defendant, as well as not timely effectuating formal service, were administrative oversights on its part based upon excusable neglect. Now that Defendant has executed a waiver, including the original waiver so as to indicate that it was amenable to doing so back in May 2021, Plaintiff respectfully contends that formal service is unnecessary and that not effectuating formal service is harmless error.

13. The parties last spoke six days ago and further discussed their positions on the underlying issues in this dispute. Shortly after that discussion, Defendant provided Plaintiff with documents that it believes support its arguments, which are now under review by counsel for Plaintiff. Accordingly, Plaintiff believes that it has demonstrated its continued attentiveness to this case and that no prejudice to Defendant or the Court is present to warrant dismissal.

CONCLUSION

WHEREFORE, Plaintiff respectfully requests that this Court rule that (i) good cause exists for its failure to timely effectuate service within 90 days pursuant to Rule 4 of the Federal Rule of Civil Procedure, (ii) the two waivers executed by Mr. Deboeck suffice to resolve the Court's concerns, and (iii) Defendant's deadline to respond to the Complaint is October 18, 2021 (60 days from date of Third Request). To the extent that the Court will not accept the executed waiver of service, Plaintiff respectfully requests—in light of the ongoing discussions between the parties—that Plaintiff be afforded two additional weeks to arrange for formal service upon Defendant.

[Signature on following page]

Dated: August 25, 2021

Respectfully submitted,

/s/ Jackson D. Toof

Jackson D. Toof (DC Bar No. 482609)

Morgan R. Pankow (DC Bar No. 1644390)

Arent Fox LLP

1717 K Street, N.W.

Washington, D.C. 20036

Tel: (202) 857-6000

Email: jackson.toof@arentfox.com

morgan.pankow@arentfox.com

Counsel for Plaintiff Arent Fox LLP

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ARENT FOX LLP,

Plaintiff,

v.

OHEMO LIFE SCIENCES, INC.,

Defendant.

Case No. 1:21-cv-01345-CRC

DECLARATION OF JACKSON D. TOOF, ESQ.

I, Jackson D. Toof, Esq., declare as follows:

1. I am a partner with the law firm of Arent Fox LLP (“Plaintiff” or Arent Fox”), counsel for Plaintiff in the above-captioned matter. I am over the age of eighteen and am not a party to the above-captioned action. If called upon to testify, I could and would testify competently to the facts set forth herein.

2. On May 24, 2021, one week after filing the Complaint [ECF No. 1], I transmitted via email to Arthur Deboeck, President of Ohemo Life Sciences, Inc. (“Defendant” or “Ohemo”), a copy of the filed Complaint along with the Notice of Lawsuit and Request to Waive Service of Summons of the Complaint (the “First Waiver Request”). A true and correct copy of my email and its attachments, including the (i) Notice of a Lawsuit and Request to Waive Service of a Summons, (ii) Waiver of the Service of Summons, and (iii) Complaint with its three exhibits, is attached hereto as **Exhibit B**. That same day, I caused a hard copy of the First Waiver Request to be sent to Defendant via Certified U.S. Mail.

3. On June 17, 2021, Mr. Deboeck on behalf of Defendant sent a letter (the “June 17 Letter”) via email to me, stating that he had received the First Request and desired to open a

dialogue regarding possible resolution of the dispute. A true and correct copy of the June 17 Letter, along with the transmittal email, is attached hereto as **Exhibit C**. I have redacted a portion of the June 17 Letter due to Rule of Evidence 408 considerations.

4. At this point, I had no reason to think Defendant would not return the waiver as requested by June 23, 2021.

5. On June 30, 2021, I sent a letter in response to the June 17 Letter (the "June 30 Letter") via email, attached hereto as **Exhibit D**. I have also redacted the June 30 Letter due to Rule of Evidence 408 considerations.

6. On July 20, 2021, I received an email in response to the June 30 Letter from a representative of Defendant, inviting a further discussion concerning potentially resolving the dispute. Mr. Deboeck, President of Ohemo, was copied on the email. A true and correct copy of this email exchange is attached hereto as **Exhibit E**. At this point, I engaged in good faith discussions with a representative of Defendant over both email and telephone concerning trying to resolve the issues raised in the Complaint.

7. In between the June 30 Letter and the email response from Defendant's representative on July 20, on July 6, 2021, a heavily-damaged envelope addressed to Ohemo was returned to Arent Fox with a "Return to Sender" and "Unable to Forward" label on the front, dated June 17, 2021. True and correct copies of pictures taken on July 6, 2021, of the mailing on May 24, 2021, which contained the First Request and the Complaint (which appeared to have been soaked with water), are attached hereto as **Exhibit F**. In light of the returned package, it appeared to me that Defendant did not receive the envelope containing the Notice of a Lawsuit and Request to Waive Service of a Summons, the Waiver of the Service of Summons, or the Complaint via U.S. Mail, but had received it via email from me on May 24, 2021, as those documents were

referenced in the June 17 Letter. Because Defendant at this time had not returned the First Request that it acknowledged in its June 17 Letter it received, and in light of the damage to the initial mailing, we had no choice but to mail an entirely new package of materials, including a Second Notice of Lawsuit and Request to Waive Service of a Summons (the “Second Request”). The Second Request, along with a copy of the Waiver of Service of Summons and the Complaint, was sent via Certified U.S. Mail on July 8, 2021.

8. From July 20, 2021 to present, I have been in regular contact with a representative for Defendant via email and telephone to discuss the issues raised in the Complaint in an effort to resolve this dispute.

9. Upon receipt of the Court’s Show Cause Order on August 18, 2021, I immediately contacted the representative for Defendant to discuss whether Defendant remained agreeable to executing a waiver, which Mr. Deboeck did on Defendant’s behalf on August 20, 2021. In an abundance of caution, given the delayed receipt of the First Request and the subsequent re-mailing of the Second Request, I requested that Mr. Deboeck execute both the May 24 waiver (*i.e.*, the First Request, since Defendant had received it timely) as well as a new waiver dated August 18, 2021 (*i.e.*, the Third Request). True and correct copies of the First Request and Third Request are attached hereto as **Exhibits A** and **G**, respectively

10. Following the Second Request, and the initial exchanges of letters between the President of Ohemo and me, a representative for Defendant and I engaged in regular, productive conversations. Indeed, the parties have already made progress in their negotiations regarding some of the facts in dispute and continue to work toward resolving the issues. Defendant remained amenable to waiving service, evinced by its execution of both the original May 24 waiver (*i.e.*, the First Request) and the waiver dated August 20, 2021 (*i.e.*, the Third Request), and has consistently

indicated its willingness to cooperate with Plaintiff. In other words, Plaintiff has continued to diligently pursue a resolution despite the lack of formal service.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of August, 2021.

/s/ Jackson D. Toof
Jackson D. Toof

EXHIBIT A

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT

for the
District of Columbia



Arent Fox LLP

Plaintiff

v.

Ohemo Life Sciences, Inc.

Defendant

Civil Action No. 1:21-cv-1345

WAIVER OF THE SERVICE OF SUMMONS

To: Jackson D. Toof, Esq.

(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 08/18/2021, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: Aug. 20, 21

Ohemo Lifesciences Inc.

Printed name of party waiving service of summons

Handwritten signature of Arthur M. Deboeck

Signature of the attorney or unrepresented party

Arthur M. Deboeck

Printed name

Road 198 km 14.7 #100 Junos PR 00771

Address

info@ohemolifesciences.com

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

EXHIBIT B

Archived: Wednesday, August 25, 2021 12:55:27 PM

From: Toof, Jackson

Sent: Mon, 24 May 2021 17:21:36 +0000Authentication

To: adeboeck@galephar.com

Cc: RPratt@LifeScienceLegal.com; drivera@galephar.com; Backer, Doug; Pankow, Morgan R.

Subject: Arent Fox - Request to Waiver Service of Complaint

Sensitivity: Normal

Attachments:

2021-05-24 Notice of Lawsuit and Request to Waive Service.pdf 2021-05-24 Waiver of Service of Summons.pdf kt. 1 - Complaint with Exhibits attached.pdf

Mr. Deboeck,

Good afternoon. Please find attached a Notice of Lawsuit and Request to Waive Service, along with the Waiver of Service document, and the Complaint with Exhibits A-C attached. The Complaint was filed on May 17, 2021.

Please let me know if you have any questions or would otherwise like to discuss. We are more than amenable to discussing ways to resolve this matter. Thank you.

Best regards,

Jackson

Jackson D. Toof

Partner

Arent Fox LLP | Attorneys at Law

1717 K Street, NW

Washington, DC 20006-5344

202.857.6130 DIRECT | 202.857.6395 FAX

jackson.toof@arentfox.com | www.arentfox.com

From: Toof, Jackson <Jackson.Toof@arentfox.com>

Sent: Tuesday, January 26, 2021 2:17 PM

To: adeboeck@galephar.com

Cc: RPratt@LifeScienceLegal.com; drivera@galephar.com; Backer, Doug <Doug.Backer@arentfox.com>

Subject: Arent Fox - Letter to Ohemo

Mr. Deboeck,

Good afternoon. Please see the attached correspondence. A hard copy has been sent to your attention via Federal Express. Thank you.

Jackson D. Toof

Partner

Arent Fox LLP | Attorneys at Law

1717 K Street, NW

Washington, DC 20006-5344

202.857.6130 **DIRECT** | 202.857.6395 **FAX**

jackson.toof@arentfox.com | www.arentfox.com

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the
District of Columbia



Arent Fox LLP

Plaintiff

v.

Ohemo Life Sciences, Inc.

Defendant

Civil Action No. 1:21-cv-1345

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Arthur M. Deboeck, President of Ohemo Life Sciences, Inc.

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 05/24/2021

Handwritten signature in blue ink over a horizontal line, with the text 'Signature of the attorney or unrepresented party' below it.

Jackson D. Toof

Printed name

1717 K Street, NW
Washington, DC 20006

Address

jackson.toof@arentfox.com

E-mail address

202.857.6000

Telephone number

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT

for the
District of Columbia

Arent Fox LLP)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 1:21-cv-1345
Ohemo Life Sciences, Inc.)	
<i>Defendant</i>)	

WAIVER OF THE SERVICE OF SUMMONS

To: Jackson D. Toof, Esq.
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from May 24, 2021, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

“Good cause” does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ARENT FOX LLP,
1717 K Street, N.W.
Washington, D.C. 20006

Plaintiff,

v.

OHEMO LIFE SCIENCES INC.,
100 Carr. 198 Km. 14-7
Juncos Industrial Park, PR 00777

Defendant.

Case No. 1:21-cv-1345

COMPLAINT

Arent Fox LLP (“Plaintiff” or “Arent Fox”), through counsel, hereby brings this Complaint against Ohemo Life Sciences Inc. (“Defendant” or “Ohemo”) for legal fees and expenses owed to Arent Fox as a result of work performed by Arent Fox for Defendant during the course of 2020, and in support thereof, respectfully alleges as follows:

NATURE OF THE CASE

1. Plaintiff is a D.C.-based law firm providing legal services to a wide range of business and individuals. Among many areas, Plaintiff specializes in intellectual property legal services and counseling, including patent and trademark work.

2. At the start of the parties’ relationship in May 2020, Defendant and Plaintiff executed a standard engagement agreement (the “Engagement Agreement”), under which Defendant agreed to promptly pay its legal bills upon receipt of monthly invoices.

3. Throughout 2020, Plaintiff provided legal advice and counseling to Defendant concerning the patent and trademark aspects of one of Defendant's products, and issued monthly invoices to Defendant.

4. However, Defendant failed to pay the invoices as required by the Engagement Agreement.

5. As a result of Defendant's failure to pay, Plaintiff has been damaged in the amount of at least \$202,630.23, plus interest due, and has had to expend time, resources, and attorneys' fees in order to resolve this dispute.

THE PARTIES

6. Plaintiff Arent Fox LLP is a limited liability partnership, organized under the laws of the District of Columbia, with its principal place of business at 1717 K Street N.W., Washington, D.C., 20006.

7. Defendant Ohemo Life Sciences, Inc. is a for-profit corporation organized under the laws of the territory of Puerto Rico, with its principal place of business at 100 Carr. 198 Km. 14-7, Juncos Industrial Park, Juncos, PR, 00777. Defendant specializes in the research, development, manufacturing, selling, and distribution of pharmaceutical products.

JURISDICTION AND VENUE

8. This action arises under D.C. state law. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of costs and interest.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), because a substantial portion of the events or omissions giving rise to the claim occurred in this District, specifically, Defendant's failure to pay Plaintiff for services rendered within this District. Defendant is subject

to personal jurisdiction in this District because it transacted business within the District of Columbia, and it previously consented to jurisdiction. *See Exhibit A* at 5.

FACTUAL ALLEGATIONS

10. On or about May 19, 2020, Defendant engaged Plaintiff to advise it regarding general intellectual property counseling and any other counseling that may arise.

11. The terms of Defendant's retention of Arent Fox are reflected in the Engagement Agreement, dated May 19, 2020. A true and correct copy of the Engagement Agreement is attached hereto as **Exhibit A**. The Engagement Agreement explains that Plaintiff had "been engaged to represent [Defendant] in connection with general intellectual property counseling, as well as any other matters as [Defendant] may specifically request." The Engagement Agreement also discloses both Arent Fox's standard practice of charging by the hour for legal services rendered and the range of hourly rates for attorneys and other professionals likely to provide legal services to Defendant.

12. Defendant accepted the terms and billing arrangements set forth in the Engagement Agreement, as evidenced by the counter-signature of Defendant's President, Arthur M. Deboeck. *See Exhibit A* at 2.

13. Following the execution of the Engagement Agreement, Richard Berman, the principal attorney working on Defendant's matters, began performing patent and trademark-related counseling concerning Defendant's research and development of certain products.

14. At all relevant times, the work undertaken by Plaintiff and its attorneys was done with the full knowledge and consent of Defendant, and required a substantial commitment of time from several of Plaintiff's attorneys, including Mr. Berman, associates, paralegals, and other staff.

15. During the period of the inception of the Engagement Agreement on May 19, 2020 through December 28, 2020, Defendant incurred legal fees and expenses totaling approximately \$202,630.23. *See Exhibit B* (Schedule reflecting past due amounts).¹

16. The legal fees and expenses billed to Defendant are reasonable, and reflect the substantial commitment of Plaintiff's time and resources on Defendant's behalf.

17. To date, however, Defendant has made no payments to Plaintiff.

18. On January 26, 2021, Plaintiff sent a letter to Arthur M. Deboeck, Defendant's President, demanding payment of the outstanding balance. A true and correct copy of the demand letter is attached hereto as **Exhibit C**.

19. Mr. Deboeck never responded to the demand letter, and to date has not disputed any of Plaintiff's invoices.

COUNT ONE
(Breach of Contract)

20. Plaintiff repeats and realleges the allegations in Paragraphs 1 through 19 of the Complaint as if fully set forth herein.

21. Plaintiff and Defendant are parties to a valid and enforceable contract pursuant to the Engagement Agreement.

22. The Engagement Agreement specifies that Plaintiff is entitled to prompt payment for services rendered to Defendant, and that Plaintiff's invoices to Defendant were "payable upon receipt."

23. Plaintiff sent such invoices to Defendant on a monthly basis between the operative date of the Engagement Agreement through the end of 2020.

¹ The legal fees and expenses due are reflected on the monthly invoices that Plaintiff sent to Defendant. Plaintiff will provide a copy of the past invoices upon request as needed.

24. To date, Defendant has not made a single payment to Plaintiff for services rendered, specifically, certain patent and trademark counseling concerning Defendant's products.

25. Defendant's failure to pay Plaintiff in accordance with the Engagement Agreement constitutes a breach of contract.

26. Defendant's failure to comply with its contractual obligations has resulted in harm to Plaintiff in the amount of approximately \$202,630.23, exclusive of interest and costs.

27. The Engagement Agreement further provides that in the event that Defendant fails to pay an invoice within 30 days after the invoice date, interest in the amount of 1% per month, or 12% annually, shall apply. *See Exhibit A* at 3.

28. Plaintiff is also entitled to reasonable attorneys' fees award and any "collection costs" incurred during the course of obtaining payment from Defendant. *Id.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendant and enter an order:

- A. Awarding Plaintiff damages from Defendant for its failure to pay its legal bills, in an amount to be proven at trial, currently estimated to be \$202,630.23;
- B. Awarding Plaintiff its interest and attorneys' fees as authorized by the Engagement Letter; and
- C. Awarding such other and further relief as the Court may deem proper.

Dated: May 17, 2021

Respectfully submitted,

/s/ Jackson D. Toof

Jackson D. Toof (DC Bar No. 482609)

Morgan R. Pankow (DC Bar No. 1644390)

Arent Fox LLP

1717 K Street, N.W.

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Tel: (202) 857-6000

Email: jackson.toof@arentfox.com

morgan.pankow@arentfox.com

Counsel for Plaintiff Arent Fox LLP

EXHIBIT C

Ohemo *LS*

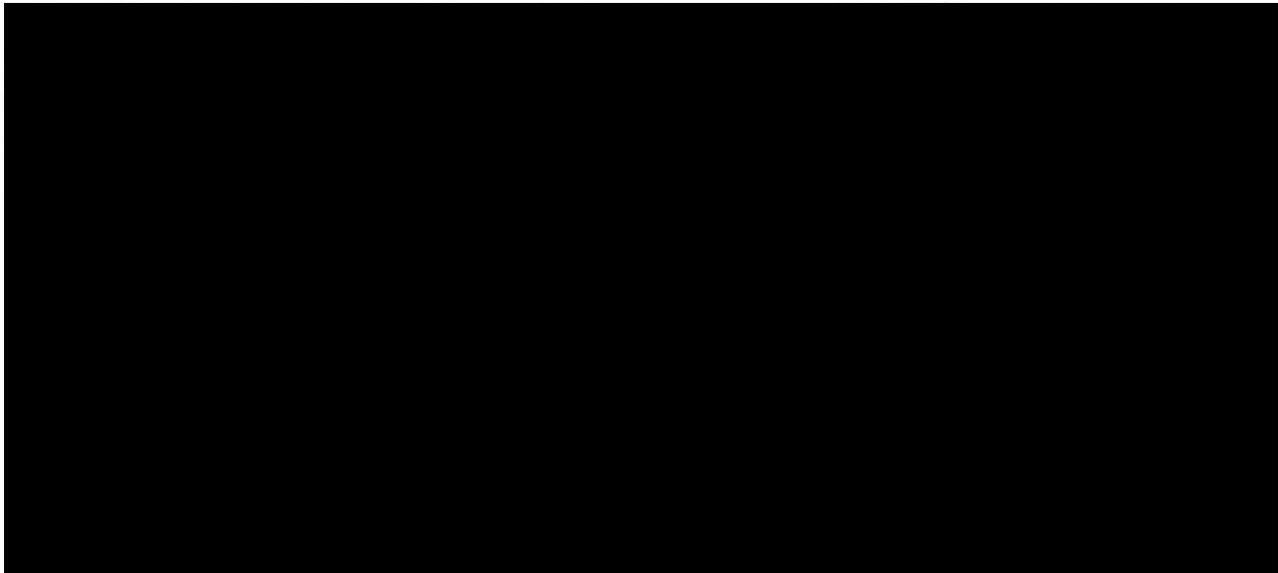
June 17, 2021

Jackson D. Toof
Arent Fox LLP
1717 K Street, NW
Washington, DC 20006-5344

Dear Mr. Toof:

Ohemo Life Sciences

We received a Notice for a Lawsuit and Request to Waive Service of a Summons regarding a complaint against Ohemo Life Sciences, Inc. for legal fees and expenses supposedly owed to Arent Fox.



We are available for engaging in this review at your earliest convenience.

We look then forward to hearing from you,

Best Regards,

Arthur M. Deboeck
President
Ohemo Life Sciences, Inc.

EXHIBIT D



Arent Fox LLP / Attorneys at Law
Boston / Los Angeles / New York / San Francisco / Washington, DC

June 30, 2021

***PRIVILEGED & CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
NOT ADMISSIBLE IN EVIDENCE FOR ANY PURPOSE***

Jackson D. Toof

Partner
202.857.6130 DIRECT
202.857.6395 FAX
jackson.toof@arentfox.com

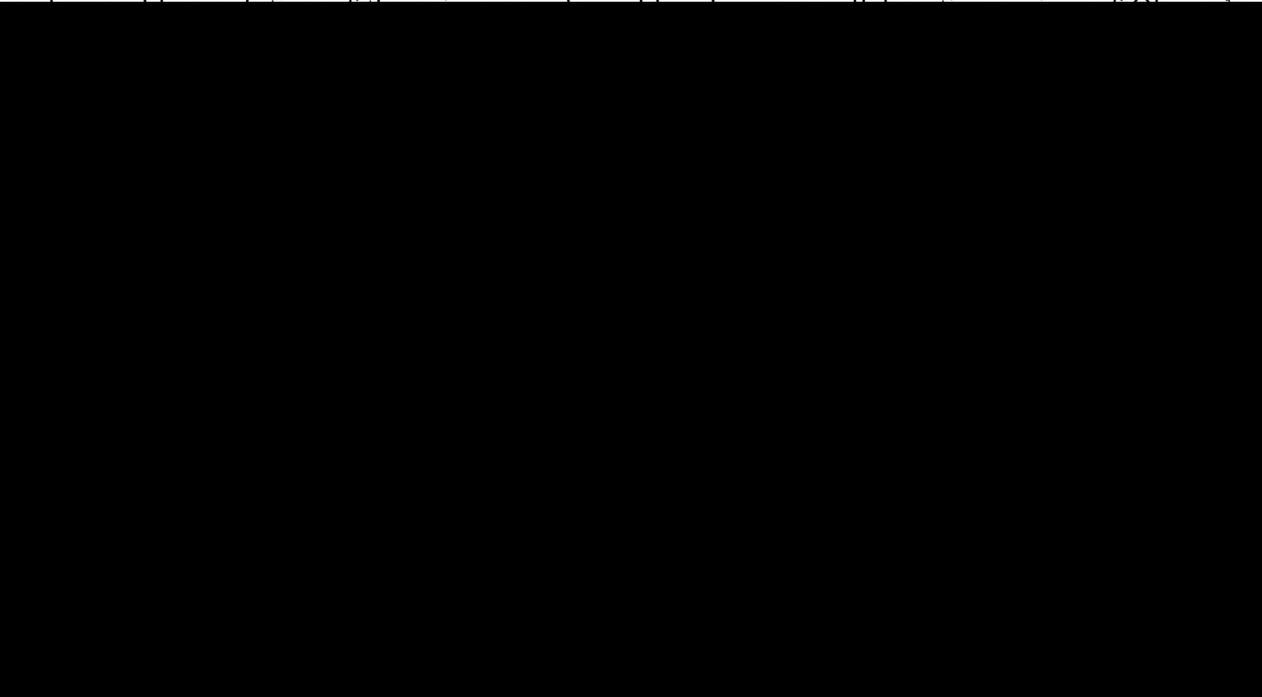
VIA EMAIL

Arthur M. Deboeck
President
Ohemo Life Sciences, Inc.
Carr. 198 km 14.7 # 100
Juncos Industrial Park
Juncos, Puerto Rico 00777-3873

Re: Ohemo Life Sciences – Unpaid Invoices

Dear Mr. Deboeck:

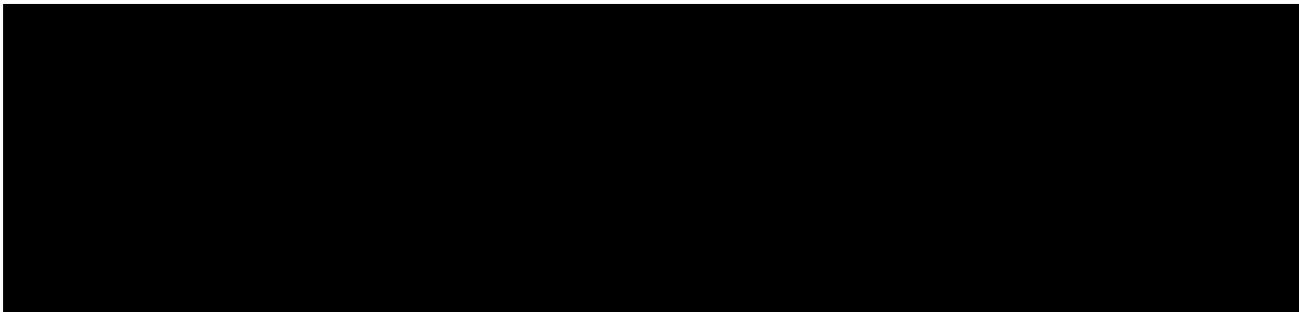
Thank you for your letter of June 17, 2021. 



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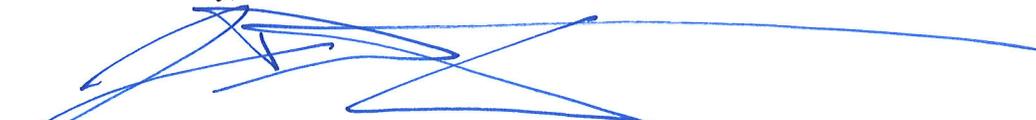
Arent Fox

Arthur M. Deboeck
Page 2



Please feel free to contact me at (202) 857-6130 or jackson.toof@arentfox.com. Thank you.

Sincerely,



Jackson D. Toof

cc: Richard Berman, Esq.
Morgan Pankow, Esq.



EXHIBIT E

Toof, Jackson

From: hafid@touam.com
Sent: Tuesday, July 20, 2021 4:52 PM
To: Toof, Jackson
Cc: Arthur Deboeck
Subject: RE: Arent Fox Ohemo
Attachments: 2021-06-30 Letter to A. Deboeck.pdf

Dear Mr. Toff,

I am reaching out to you on behalf of my colleague Arthur Deboeck.

Could you please let me know what a good day and time would be for you to discuss the matter object of your letter attached.

I look forward to hearing from you at your earliest convenience,

Thank you and best regards,

Hafid

HAFID TOUAM | [TEL:+1\(267\)358-6250](tel:+1(267)358-6250) | CELL +1(484)832-0404 |

From: bmartinez@ohemolifesciences.com
Sent: Wednesday, June 30, 2021 10:53 AM
To: Arthur Deboeck ; Hafid Touam
Subject: FW: Letter from Ohemo

FYI

From: Toof, Jackson <Jackson.Toof@arentfox.com>
Sent: Wednesday, June 30, 2021 10:31 AM
To: bmartinez@ohemolifesciences.com
Cc: info@ohemolifesciences.com; Pankow, Morgan R. <Morgan.Pankow@arentfox.com>
Subject: RE: Letter from Ohemo

Good morning. Thank you for the letter concerning a review of invoices. Please see the attached letter in response. We look forward to coordinating a time for a joint review after the July 4 holiday weekend.

Best regards,
Jackson

Jackson D. Toof
Partner

Arent Fox LLP | Attorneys at Law
1717 K Street, NW
Washington, DC 20006-5344
202.857.6130 **DIRECT** | 202.857.6395 **FAX**
jackson.toof@arentfox.com | www.arentfox.com

From: bmartinez@ohemolifesciences.com <bmartinez@ohemolifesciences.com>

Sent: Friday, June 18, 2021 9:14 AM

To: Toof, Jackson <Jackson.Toof@arentfox.com>

Cc: info@ohemolifesciences.com

Subject: Letter from Ohemo

Good morning,

On behalf of Arthur Deboeck, please find attached letter.

Kind regards

Britta Martinez

CONFIDENTIALITY NOTICE: This e-mail and any attachments are for the exclusive and confidential use of the intended recipient. If you received this in error, please do not read, distribute, or take action in reliance upon this message. Instead, please notify us immediately by return e-mail and promptly delete this message and its attachments from your computer system. We do not waive attorney-client or work product privilege by the transmission of this message.

EXHIBIT F

CERTIFIED MAIL



9434 7266 9904 2058 5386 02

Gabriela Villalaz
Agent Fox LLP
1717 K Street, NW
Washington, DC 20006
US

Arthur M. Debeck

-B-T-S- 007772025-135 08/17/11

RETURN TO SENDER
UNABLE TO FORWARD
UNABLE TO FORWARD
RETURN TO SENDER

PH. 202.462.1111 FAX. 202.462.1112

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the
District of Columbia

Arent Fox LLP

Plaintiff

v.

Ohemo Life Sciences, Inc.

Defendant

Civil Action No. 1:21-cv-1345

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Arthur M. Deboeck, President of Ohemo Life Sciences, Inc.

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

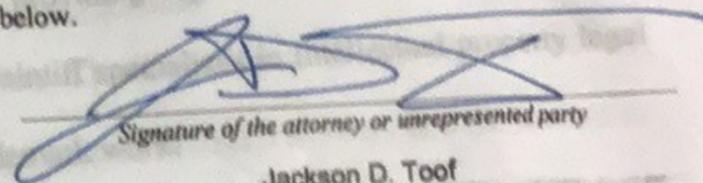
If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 05/24/2021


Signature of the attorney or unrepresented party

Jackson D. Toof
Printed name
1717 K Street, NW
Washington, DC 20006

Address

jackson.toof@arentfox.com
E-mail address

202.857.6000
Telephone number

EXHIBIT G

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT

for the
District of Columbia

Arent Fox LLP

Plaintiff

v.
Oheho Life Sciences, Inc.

Defendant

Civil Action No. 1:21-cv-1345

WAIVER OF THE SERVICE OF SUMMONS

To: Jackson D. Toof, Esq.
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from May 24, 2021, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: Aug 19, 21
Oheho Life Sciences Inc
Printed name of party waiving service of summons

Arthur M. DeBoeck
Signature of the attorney or unrepresented party
ARTHUR M. DEBOECK
Printed name

Road 198 km 14.7 #100 Junos PR 0077
Address

info@ohemolifesciences.com
E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.