

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

PIRAMAL PHARMA LIMITED )  
d/b/a PIRAMAL PHARMA SOLUTIONS, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
BLADE THERAPEUTICS, INC., )  
 )  
Defendant. )

C.A. No. 1:23-cv-1044-GBW-SRF

**REPORT AND RECOMMENDATION**

Presently before the court in this breach of contract action is Plaintiff Piramal Pharma, Ltd. d/b/a Piramal Pharma Solutions’ (hereinafter “Piramal”) motion for entry of judgment by default pursuant to Federal Rule of Civil Procedure 55(b)(2) against Defendant Blade Therapeutics, Inc. (hereinafter “Blade”). (D.I. 13)<sup>1</sup> For the reasons that follow, the court recommends that Piramal’s motion be **GRANTED-IN-PART** for the recovery of the outstanding balance under the Purchase Orders of [REDACTED] and costs of \$472.00 totaling [REDACTED] and **DENIED** for the recovery of attorneys’ fees totaling [REDACTED]

**I. BACKGROUND**

Piramal is a pharmaceutical company located in Mumbai, Maharashtra, India. (See D.I. 1 at ¶ 10) Blade is a Delaware corporation. (*Id.* at ¶ 11) Subject matter is proper in this court because the parties are diverse and the amount in controversy exceeds \$75,000.00. See 28 U.S.C. § 1332.

This dispute arises from a contract between the parties for Piramal to [REDACTED]  
[REDACTED] (hereinafter

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<sup>1</sup> The brief submitted in support of this motion can be found at D.I. 14 (redacted version D.I. 17).

the “API Product”) to Blade. (D.I. 1 at ¶ 2) On September 28, 2020, Blade submitted Purchase Order No. 6106 to Piramal for the manufacturing and delivery of the API Product. (*Id.* at ¶¶ 18–19; *see also* D.I. 6 Ex. B) On March 17, 2022, Piramal transmitted a purchase proposal titled the

[REDACTED]  
[REDACTED] (hereinafter the “Proposal”) to Blade. (D.I. 6 Ex. A) The Proposal was executed by Blade on March 23, 2022, and countersigned by Piramal on March 25, 2022. (D.I. 1 at ¶¶ 14–17) Blade thereafter executed a second Purchase Order, No. 7524, on April 1, 2022. (D.I. 1 at ¶¶ 20–21; *see also* D.I. 6 Ex. C (collectively with No. 6106, the “Purchase Orders”))

According to the complaint, Blade accepted deliveries of the API Product on May 30, 2022, and August 20, 2022. (D.I. 1 at ¶¶ 25–26; *see also* D.I. 6 Exs. I–J) But Blade allegedly never paid its balance of [REDACTED], although pursuant to the Proposal, it contracted to do so within thirty (30) days of delivery. (D.I. 1 at ¶¶ 27–28; *see also* D.I. 6 Ex. A at 8) Piramal sent Blade a Notice for Non-Payment of the Purchase Orders on December 30, 2022, and Piramal’s counsel reached out to Blade regarding its delinquency on February 9, 2023.<sup>2</sup> (D.I. 1 at ¶¶ 29–30; *see also* D.I. 6 Exs. G–H)

Piramal filed this suit on September 25, 2023. (D.I. 1) The complaint asserts five counts: breach of express contract because Blade did not pay for the API Product or its delivery, contrary to the Proposal and Purchase Orders (“Count I”); unjust enrichment/breach of quasi-contract (“Count II”); promissory estoppel (“Count III”); quantum meruit (“Count IV”); and intentional interference with prospective economic advantage (“Count V”). (*Id.*) A summons was returned

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<sup>2</sup> Blade was notified in this letter that Piramal would dispose of the remaining raw materials on February 15, 2023, due to safety risks associated with storing them. (D.I. 6 Ex. H at 2; *see also* D.I. 14 at 2 n.1) This would incur “Raw Materials Disposal Costs” that have not been calculated and are not requested at this time. (D.I. 14 at 2 n.1)

executed upon Blade's registered agent on September 26, 2023. (D.I. 7) This case was referred to the undersigned Magistrate Judge by the District Judge on October 4, 2023. (D.I. 10)

Blade was required to file its responsive pleading on or before October 17, 2023. (D.I. 7; *see also* FED. R. CIV. P. 12(a)(1)(A)(i)) Blade failed to respond, and a default in appearance was entered pursuant to Rule 55(a) on November 20, 2023. (D.I. 12) Piramal brought the present motion for default judgment pursuant to Rule 55(b)(2) on December 22, 2023. (D.I. 13) Piramal seeks to recover the outstanding balance on the Purchase Orders of [REDACTED] costs of \$472.00, and attorneys' fees of [REDACTED] (E.g. D.I. 14 at 6)

## II. LEGAL STANDARD

Federal Rule of Civil Procedure 55(b)(2) provides that a district court may enter default judgment against a party when default has been entered by the Clerk of Court. FED. R. CIV. P. 55(b)(2). The decision to enter a default judgment is within the discretion of the court. *Tristrata Tech., Inc. v. Med. Skin Therapy Rsch., Inc.*, 270 F.R.D. 161, 164 (D. Del. 2010) (citing *Hritz v. Woma Corp.*, 732 F.2d 1178, 1180 (3d Cir. 1984)).

First, the court must decide whether “the unchallenged facts constitute a legitimate cause of action, since a party in default does not admit . . . conclusions of law.” *Comput. Design & Integration, LLC v. Protego Tr. Co.*, 2024 WL 1434567, at \*1 (D. Del. Apr. 3, 2024) (quoting *Chanel, Inc. v. Gordashevsky*, 558 F. Supp. 2d 532, 536 (D.N.J. 2008)). If the complaint states a cause of action, the court considers three factors for determining if a default judgment is appropriate: “(1) prejudice to the plaintiff if default is denied, (2) whether the defendant appears to have a litigable defense, and (3) whether defendant’s delay is due to culpable conduct.” *Chamberlain v. Giampapa*, 210 F.3d 154, 164 (3d Cir. 2000). “A consequence of the entry of a default judgment is that the factual allegations of the complaint, except those relating to the

amount of damages, will be taken as true.” *Comdyne I, Inc. v. Corbin*, 908 F.2d 1142, 1149 (3d Cir. 1990) (quotations omitted).

The court may conduct an evidentiary hearing to ascertain the amount of damages or establish the truth of the allegations. FED. R. CIV. P. 55(b)(2). However, “Rule 55 does not require that testimony be presented as a prerequisite to the entry of a default judgment[.]” 10A C. Wright & A. Miller, *Federal Practice and Procedure* § 2688 (4th ed. last updated April 2023); see *Rhino Assocs., L.P. v. Berg Mfg. & Sales Corp.*, 531 F. Supp. 2d 652, 657 (M.D. Pa. 2007).

### **III. DISCUSSION**

#### **A. Liability**

To plead a breach of contract claim in Delaware, a plaintiff must allege the existence of a contract, a breach of that contract, and resulting damages. See *VLIW Tech., LLC v. Hewlett-Packard Co.*, 840 A.2d 606, 613 (Del. 2003). Viewing the assertions in the complaint as true, Piramal establishes a claim for breach of contract because the complaint alleges that the parties executed the Proposal and Purchase Orders (hereinafter the “Agreements”) for the procurement, manufacture, analysis, and delivery of the API Product, and Blade never paid the amounts due under the Purchase Orders, despite accepting delivery. (D.I. 1)

Furthermore, default judgment is warranted because Piramal has satisfied all three *Chamberlain* factors. 210 F.3d 154, 164 (3d Cir. 2000). First, Piramal will be prejudiced if default is denied because it has no other recourse for obtaining the amounts owed to it as a result of Blade’s breaches. (See D.I. 14 at 4; see also *Roy v. Sakhr Software Co. (K.S.C.C.)*, 2015 WL 4608132, at \*2 (D. Del. July 31, 2015)) Blade does not appear to have a litigable defense, or any defense, because it has failed to appear. Judges in this court have found this element satisfied

when defendants are nonresponsive. (D.I. 14 at 5 (citing *J & J Sports Prod., Inc. v. M&I Hosp. of Del. Inc.*, 2018 WL 6040254, at \*3 (D. Del. Nov. 19, 2018); *Skeway v. China Nat. Gas, Inc.*, 2015 WL 451435, at \*2 (D. Del. Jan. 30, 2015))) Finally, it can be inferred that Blade’s avoidance of the suit is due to its culpable conduct. Piramal’s attempts to contact Blade have gone unanswered. (See D.I. 1 at ¶ 29; D.I. 6 at 5–6) “At minimum, this lack of action amounts to deliberate and willful conduct.” *SEC v. Krimm*, 2019 WL 2270437, at \*5 (D. Del. May 28, 2019); see also *J & J Sports Prod., Inc.*, 2018 WL 6040254, at \*2.

Therefore, the court recommends that Piramal’s motion for default judgment pursuant to Rule 55(b)(2) be **GRANTED**.

## **B. Damages**

### **i. Blade’s Outstanding Balance on the Agreements**

Piramal seeks damages for a sum certain and asks the court to award the full [REDACTED] outstanding on the Agreements. (E.g. D.I. 14 at 6) The requests for payment sent to Blade, which are attached to the complaint, contain an accounting of the totals owed to Piramal, the invoice number, an explanation of amounts charged, and when it was incurred. (*Id.* Ex. G at 4, Ex. H at 3) Moreover, the Proposal clearly states that payment is due within thirty (30) days of delivery. (*Id.* Ex. A at 8) Thus, the court finds that Piramal has submitted sufficient evidence that it is owed the liquidated sum of [REDACTED] pursuant to the Agreements and, accordingly, recommends that its request for contractual damages be **GRANTED**.

### **ii. Costs**

Piramal seeks to recover \$472.00 in costs that it incurred in filing this suit and serving notice on Blade. (See D.I. 14 at 6; see also D.I. 16 at ¶ 6; D.I. 16 Ex. B) “Unless a federal statute, [the Federal Rules of Civil Procedure], or a court order provides otherwise, costs — other

than attorney's fees — should be allowed to the prevailing party.” FED. R. CIV. P. 54(d)(1); *see also* D. DEL. LR 54.1(a)(1); *Aspen Am. Ins. Co. v. Total Quality Logistics, LLC*, 2019 WL 1275058, at \*5 (D.N.J. Mar. 20, 2019). Piramal's counsel, Kratz & Barry, LLP, has submitted an accounting and invoices of the costs incurred by Piramal for filing suit, \$402.00, and service of process, \$70.00. (D.I. 16 Ex. B) Thus, the court recommends that Piramal's request for costs totaling \$472.00 be **GRANTED**.

### **iii. Attorneys' Fees**

Piramal also seeks to collect attorneys' fees totaling [REDACTED] from Blade pursuant to Federal Rule of Civil Procedure 54(d)(2). (D.I. 14 at 6) In support, Kratz & Barry, LLP submits an accounting of fees charged to its client, Piramal. (D.I. 16 Ex. B) It also submits the declaration of R. Touhey Myer, a partner at Kratz & Barry, LLP, who attests to the reasonableness of the fees charged to the client. (D.I. 16 at ¶ 3)

Piramal does not cite the statutory or contractual basis which would allow for an award of attorneys' fees in this case. (*See* D.I. 14; D.I. 16) The court can only award attorneys' fees when permitted by statute or contract. *Pedrick v. Roten*, 70 F. Supp. 3d 638, 653–54 (D. Del. 2014); *Jewell v. Miller*, 2021 WL 3510771, at \*3 (D. Del. July 2, 2021). Consequently, the court recommends that Piramal's request for attorneys' fees pursuant to Rule 54(d)(2) totaling [REDACTED] be **DENIED**.

## **IV. CONCLUSION**

For the foregoing reasons, the court recommends that Piramal's motion for Judgment by default be **GRANTED-IN-PART** in the amount of the outstanding balance under the Purchase Orders of [REDACTED] plus costs of \$472.00, for a total award of [REDACTED] and **DENIED** as to its request for attorneys' fees totaling [REDACTED]

It is further recommended that the court enter an Order of Default Judgment against Blade Therapeutics, Inc. in the form of Piramal's "Proposed Order" (D.I. 14 Ex. A) with the following changes: (i) in Paragraph 3, the word "statutory" should be struck and the word "contractual" should be inserted in its place with a period inserted instead of a comma after the amount [REDACTED], and the remainder of that sentence struck; and (ii) in Paragraph 4, striking the language completely and replacing it with the following: "Plaintiff is awarded total costs in the amount of \$472.00, for its filing fee of \$402.00 and process server's fee of \$70.00, pursuant to Federal Rule of Civil Procedure 54(d)(1)."

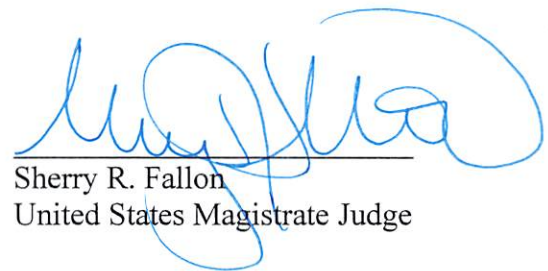
Given that the court has relied upon material that technically remains under seal, the court is releasing this Report and Recommendation under seal, pending review by the parties. In the event that the parties believe that certain material in this Report and Recommendation should be redacted, the parties shall submit a proposed redacted version by no later than **May 7, 2024**, for review by the court, along with a motion supported by a declaration that includes a clear, factually detailed explanation as to why disclosure of any proposed redacted material would "work a clearly defined and serious injury to the party seeking closure." *See In re Avandia Mktg., Sales Practices & Prods. Liab. Litig.*, 924 F.3d 662, 672 (3d Cir. 2019) (quoting *Miller v. Ind. Hosp.*, 16 F.3d 549, 551 (3d Cir. 1994) (internal quotation marks omitted)). If the parties do not file a proposed redacted version and corresponding motion, or if the court determines the motion lacks a meritorious basis, the documents will be unsealed within fourteen (14) days of the date the Report and Recommendation issued.

Piramal shall serve a copy of this Report and Recommendation on Blade in the same manner Piramal served Blade with the Entry of Default in Appearance and shall file proof of such service with the court.

This Report and Recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(b)(1), and D. DEL. LR 72.1. The parties may serve and file specific written objections within fourteen (14) days after being served with a copy of this Report and Recommendation. FED. R. CIV. P. 72(b)(2). The objections and responses to the objections are limited to ten (10) pages each. The failure of a party to object to legal conclusions may result in the loss of the right to de novo review in the District Court. *See Sincavage v. Barnhart*, 171 F. App'x 924, 925 n.1 (3d Cir. 2006); *Henderson v. Carlson*, 812 F.2d 874, 878–79 (3d Cir. 1987).

The parties are directed to the court's Standing Order For Objections Filed Under FED. R. CIV. P. 72, dated March 7, 2022, a copy of which is available on the court's website, <http://www.ded.uscourts.gov>.

Dated: April 23, 2024



Sherry R. Fallon  
United States Magistrate Judge