

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION**

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TISSUE TECHNOLOGY, LLC, PARTNERS  
CONCEPTS DEVELOPMENT, INC.,  
OCONTO FALLS TISSUE, INC. and  
TISSUE PRODUCTS TECHNOLOGY CORP.,

Plaintiffs,

v.

Case No. 14CV1203

TAK INVESTMENTS, LLC, and  
SHARAD TAK,

Defendants.

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**BRIEF IN SUPPORT OF MOTION TO ENLARGE TIME**

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Defendant Sharad Tak has authored two declarations that are part of the Court proceedings in this matter, the first, dated August 1, 2016 (document 28), and the second, dated September 19, 2016 (document 38). The Amended Complaint alleges Mr. Tak's address as 3101 South Ocean Drive, Unit 2708, Hollywood, Florida 33019 (document 49). Defendant Tak Investments, LLC admitted in its answer to the Amended Complaint, at paragraph 6 (document 52), that this is Mr. Tak's home address.

Upon filing of the Complaint and the issuance of the Summons, a letter was sent to Mr. Tak dated April 12, 2017 seeking a Waiver of Service under Rule 4 of the Federal Rules of Civil Procedure. *See*, Affidavit of Michael J. Ganzer at Exhibit A. Mr. Tak did not respond to that letter so personal service was attempted, and failed, despite numerous attempts including one in which the process server indicated that he could hear individuals in the home, but they refused to answer the door. *See*, Affidavit of Andrew Karp submitted herewith.

Federal Rule of Civil Procedure 4(m) provides that the defendant must be served within ninety (90) days from the date the Complaint is filed or the matter is subject to dismissal. However, if the plaintiff shows good cause for the failure, the Court “must extend the time for service for an appropriate period”. FRCP 4(m). Generally, FRCP 6(b) provides that a Court may, for good cause, extend the time by which a mandatory act must be done. Good cause, for the purpose of requesting an extension of time in order to effect service, is examined by considering whether the delay resulted from an inadvertence or whether reasonable effort to effect service has occurred. Also to be considered is whether the defendant has been prejudiced by a delay and whether the plaintiff has moved for an enlargement of time to effect service. *Troxelo v. Fedders of North America*, 160 F.3d 381 (7<sup>th</sup> Cir. 1998). In this case, it is quite clear that all reasonable efforts have been made to serve Sharad Tak. He has ignored those efforts. His address, according to Tak Investments, LLC, is the correct address as acknowledged both by the process server and of defendant, Tak Investments, LLC, in this case. At least one time while attempting service, the process server believed people to be inside the residence, refusing to answer. In addition, Mr. Tak failed to respond to the standard FRCP 4 waiver of service letter. He has also been involved in this litigation to the extent that he has executed and counsel has filed, declarations authored by Mr. Tak. It is quite clear that he is evading service.

The plaintiffs have acted timely and in good faith in trying to ensure that Mr. Tak is served. Immediately after the Amended Complaint was placed on file, a request for a Summons was made. The Summons was then issued. Immediately thereafter, the waiver of service letter went to Mr. Tak, which he refused to acknowledge. He has ignored a process server and is doing nothing more than attempting to make this litigation more delayed and expensive.

With all the foregoing in mind, it is respectfully requested that the Court permit an extension of time to August 30, 2017 for service upon Sharad Tak. If the plaintiffs are not allowed to do so, and Sharad Tak is dismissed from this lawsuit, the statute of limitations may well come in to play and prohibit the plaintiffs from recovery. The matter is set for trial commencing on September 18, 2017 so it is imperative that service be accomplished as quickly as possible and it is further requested that it be accomplished by the United States Marshal's Service for the Southern District of Florida. In that regard, it is respectfully requested that the Court make an appropriate order to effectuate service as allowed under Federal Rules of Civil Procedure 4(c)(3).

Dated this 27<sup>th</sup> day of June, 2017.

TERSCHAN, STEINLE, HODAN  
& GANZER, LTD.  
ATTORNEYS FOR PLAINTIFFS,

BY: /s/ MICHAEL J. GANZER

MICHAEL J. GANZER  
STATE BAR NO. 1005631

**P. O. ADDRESS:**

309 NORTH WATER STREET  
SUITE 215  
MILWAUKEE, WI 53202  
414-258-1010

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION

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TISSUE TECHNOLOGY LLC, PARTNERS  
CONCEPTS DEVELOPMENT, INC., OCONTO  
FALLS TISSUE, INC., and TISSUE PRODUCTS  
TECHNOLOGY CORP.,

Plaintiffs,

Case No. 14CV1203

v.

TAK INVESTMENTS, LLC,

Defendant.

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**AFFIDAVIT OF MICHAEL J. GANZER**

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STATE OF WISCONSIN     )  
  )ss  
MILWAUKEE COUNTY     )

MICHAEL J. GANZER, being first duly sworn on oath, deposes and states as follows:

1. I am an attorney licensed to practice law in the State of Wisconsin and represent the plaintiffs in the above-captioned case.
2. On April 3, 2017, as a result of the Decision and Order of the Court, the proposed Amended Complaint submitted as part of the plaintiff's motion was accepted by the Court and placed on file. Shortly after that, a Summons was issued.
3. On April 12, 2017, I sent a letter to the new Defendant, Sharad Tak, at his address at 3101 South Ocean Drive, #2807, Hollywood, Florida 33019. Attached hereto and incorporated herein by reference and marked as Exhibit A is a copy of that letter along with the Notice of Lawsuit and Request for Waiver of Service of Summons consistent with Rule 4 of the Federal Rules of Civil Procedure.

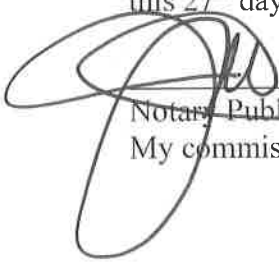
4. Thirty (30) days passed from the mailing of that letter and there was no response from Defendant Sharad Tak. As a result, I had secured the services of a private process server for service of the Summons and Complaint on Sharad Tak, OJF Services, Inc. of Miami, Florida. The Affidavit of Non-Service of Andrew Karp, is submitted with this Motion.

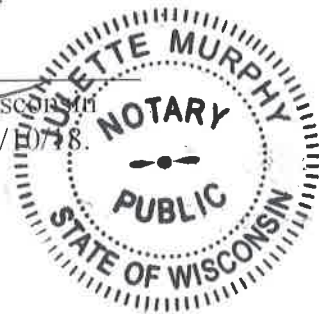
5. It is respectfully requested that the Court enlarge the period of time for service upon defendant, Sharad Tak, inasmuch as it is clear he is attempting to evade service and has not otherwise cooperated. It is requested that the plaintiff be given until the end of August to ensure service and to enlist the assistance of the United States Marshall's Office in order to assist in ensuring service.

Dated this 27<sup>th</sup> day of June, 2017.

  
\_\_\_\_\_  
Michael J. Ganzer  
State Bar No. 1005631

Subscribed and sworn to before me  
this 27<sup>th</sup> day of June, 2017.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires: 2/10/18.



April 12, 2017

Mr. Sharad Tak  
3101 South Ocean Drive, #2807  
Hollywood, FL 33019

Re: *Tissue Technology, LLC, et al. v. Tak Investments LLC and Sharad Tak*

Dear Mr. Tak:

Enclosed please find the Summons and Complaint in the above-referenced action, which I herewith submit to you as proposed service under Rule 4 of the Federal Rules of Civil Procedure. I also enclose two (2) copies of the Notice of Lawsuit and Request for Waiver of Service of Summons, as is required. Additionally enclosed is our stamped return envelope for return of the Waivers, should you deem that to be appropriate.

If you comply with this request and return the signed Waiver, that Waiver will be filed with the Court and no Summons will be personally served upon you. Please see the Notice of Lawsuit and Request for Waiver for more detail. In the event we do not obtain your Waiver, I will take steps to formally serve you as outlined in the Federal Rules of Civil Procedure.

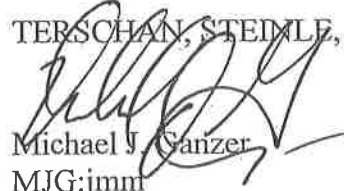
Please be advised that Defendant Tak Investments, LLC is represented in this case by Attorney Jonathan Smies of Godfrey & Kahn, S.C. which is located at 200 South Washington Street, Suite 100, Green Bay, Wisconsin 54301. Please ensure that Mr. Smies receives a copy of your answer and any and all pleadings regarding this case.

I would respectfully request that if you do not intend to waive service, you call me so I may have the personal service process commenced.

I look forward to your response.

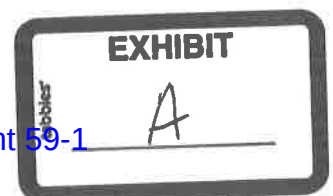
Very truly yours,

TERSCHAN, STEINLE, HODAN & GANZER, LTD.

  
Michael J. Ganzer  
MJG:jmm

Enclosures

cc: Attorney Jonathan Smies (w/encs.)  
Mr. Ron Van Den Heuvel (w/encs.)



UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

TISSUE TECHNOLOGY, LLC, et al
Plaintiff
v.
TAK INVESTMENTS, LLC, and SHARAD TAK
Defendant
Civil Action No. 14cv01203

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

To: SHARAD TAK
(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: 04/13/2017

Signature of the attorney or unrepresented party
MICHAEL J. GANZER
Printed name
TERSCHAN, STEINLE, HODAN & GANZER, LTD.
309 N. WATER STREET, SUITE 215
MILWAUKEE, WI 53202
Address
MIKEG@TSHGLAW.COM
E-mail address
414-258-1010
Telephone number

UNITED STATES DISTRICT COURT  
for the  
Eastern District of Wisconsin

TISSUE TECHNOLOGY, LLC, et al

Plaintiff

v.

TAK INVESTMENTS, LLC, and SHARAD TAK

Defendant

Civil Action No. 14cv01203

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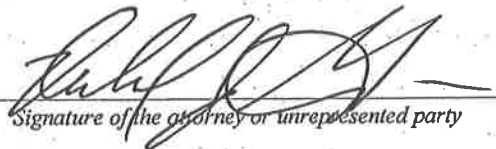
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Date: 04/13/2017

  
Signature of the attorney or unrepresented party

MICHAEL J. GANZER

Printed name

TERSCHAN, STEINLE, HODAN & GANZER, LTD.  
309 N. WATER STREET, SUITE 215  
MILWAUKEE, WI 53202

Address

MIKEG@TSHGLAW.COM

E-mail address

414-258-1010

Telephone number



UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

TISSUE TECHNOLOGY, LLC, et al

Plaintiff

v.

TAK INVESTMENTS, LLC and SHARAD TAK

Defendant

Civil Action No. 14CV01203

WAIVER OF THE SERVICE OF SUMMONS

To: SHARAD TAK

(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 04/13/2017, 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

SHARAD TAK

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.

UNITED STATES DISTRICT COURT

for the Eastern District of Wisconsin

TISSUE TECHNOLOGY, LLC, et al
Plaintiff
v.
TAK INVESTMENTS, LLC and SHARAD TAK
Defendant
Civil Action No. 14CV01203

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

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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 04/13/2017, 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

SHARAD TAK

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

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"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.

**AFFIDAVIT OF NON-SERVICE**

**UNITED STATES DISTRICT COURT  
EASTERN District of WISCONSIN**

Case Number: 14-CV-01203

Plaintiff:  
**TISSUE TECHNOLOGY, LLC**

vs.

Defendant:  
**TAK INVESTMENTS, LLC, ET AL.,**

For:  
Michael Ganzer  
TERSCHAN, STEINLE, HODAN & GANZER, LTD  
309 N. Water Street  
Suite 215  
Milwaukee, WI 53202

Received by OJF SERVICES, INC. on the 25th day of May, 2017 at 4:30 pm to be served on **SHARAD TAK, 3101 SOUTH OCEAN DRIVE, #2807, HOLLYWOOD, FL 33019.**

I, ANDREW KARP, being duly sworn, depose and say that on the **21st day of June, 2017 at 3:45 pm, I:**

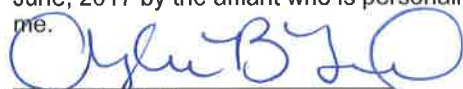
**NON-SERVED** the **SUMMONS AND AMENDED COMPLAINT** at the address of **3101 SOUTH OCEAN DRIVE, #2807, HOLLYWOOD, FL 33019** for the reason that I failed to find **SHARAD TAK** or any information to allow further search. Read the comments below for further details.

**Additional Information pertaining to this Service:**

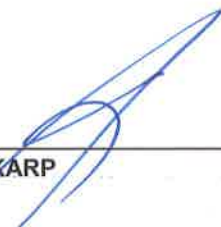
- 5/27/2017 7:30 pm Attempted Service. No answer at the unit.
- 5/30/2017 5:10 pm Attempted Service. No answer. Could hear noise inside.
- 6/2/2017 8:27 am Attempted Service. No answer. Confirmed with security the defendant is listed in the unit.
- 6/7/2017 2:30 pm Attempted Service. No answer.
- 6/10/2017 10:15 am Attempted Service. Parking lot flooded. Couldn't get to the door.
- 6/15/2017 9:30 pm Attempted Service. No answer
- 6/20/2017 11:00 am ATTEMPTED AGAIN THIS MORNING, PER SECURITY THE DEFENDANTS HAD TO MOVE OUT DUE TO FLOODING. NO FURTHER INFORMATION WAS PROVIDED REGARDING THE LENGTH OF TIME OR THE LOCATION.

I CERTIFY THAT I AM OVER THE AGE OF 18, HAVE NO INTEREST IN THE ABOVE ACTION, AND THAT I AM A SPECIAL PROCESS SERVER APPOINTED BY THE SHERIFF, IN GOOD STANDING, IN THE JUDICIAL CIRCUIT IN WHICH PROCESS WAS SERVED. "UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING (DOCUMENT) AND THAT THE FACTS STATED IN IT ARE TRUE, 92.525.

Subscribed and Sworn to before me on the 21st day of June, 2017 by the affiant who is personally known to me.

  
NOTARY PUBLIC



  
\_\_\_\_\_  
**ANDREW KARP**  
SPS #260

**OJF SERVICES, INC.**  
13727 S.W. 152nd Street  
P.M.B. 354  
Miami, FL 33177  
(786) 293-5750

Our Job Serial Number: OJF-2017006937

