



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

PATRICK MOONEY, M.D.,

Plaintiff,

v.

ECHO THERAPEUTICS, INC.,

Defendant.

C.A. No. 10054-VCP

**ORDER ESTABLISHING
PROCEDURE FOR PAYMENT OF ADVANCEMENT**

WHEREAS, on this same date, May 28, 2015, the Court issued a Memorandum Opinion (the “Opinion”) that determined for which categories of claims Plaintiff, Patrick Mooney, is entitled to advancement from Defendant, Echo Therapeutics, Inc. (“Echo”), and

WHEREAS, the Opinion held that Mooney: (1) is entitled to advancement for the reasonable fees and expenses incurred in defending against the Amended Counterclaim¹ and the Amended Affirmative Defenses; (2) may be entitled to some of the \$34,000 in disputed fees from the Original Counterclaims; and (3) is entitled to 40% of the reasonable fees and expenses incurred in bringing this action,

¹ Unless otherwise defined, capitalized terms have the same meaning as in the Opinion.

NOW, THEREFORE, IT IS HEREBY ORDERED this 28th day of May, 2015, that the parties shall employ the following procedure to resolve all current and future fee disputes:

1. For all amounts for which Mooney currently seeks advancement, the senior member of the Delaware bar representing Mooney shall certify that: (i) he personally reviewed the invoice; (ii) each time entry and expense was necessary to defend against the Original Counterclaims, the Amended Counterclaim, or the Amended Affirmative Defenses; (iii) in his professional judgment, the fees and expenses charged are reasonable in light of the factors listed in Rule 1.5(a) of the Delaware Lawyer's Rules of Professional Conduct; and (iv) the services rendered were thought prudent and appropriate in his good faith professional judgment.

2. Echo shall submit written objections to all pending invoices by June 8, 2015. The written objections shall identify each specific time entry or expense to which Echo objects and explain the nature of the objection. The written objections also shall identify and explain the basis for any allocation made. The senior member of the Delaware bar representing Echo shall certify that: (i) he personally reviewed the advancement demand; and (ii) in his professional judgment, the disputed fees and expenses are not reasonable or otherwise fall outside the scope of the advancement right. The written objections shall cite any legal authority on which Echo relies. Any objection that Echo fails to raise in the written objections

shall be deemed waived. Any undisputed amounts will be paid by Echo contemporaneous with the written objections. If Echo disputes more than 25% of the amount sought in the advancement submission, Echo shall pay 75% of the amount sought.

3. Within fifteen days of receiving Echo's written objections, Mooney's counsel shall reply in writing and provide supporting information and authority.

4. Within ten days of receiving Mooney's reply, the parties shall meet and confer regarding any disputed amounts.

5. If the parties are unable to resolve the issues identified in Echo's written objections at that meet and confer session, Mooney may file an application to this Court within ten days of the meet and confer session seeking a ruling on the disputed amount. Briefing shall consist of a motion, an opposition filed within ten days of the motion, and a reply filed within seven days of the opposition. The parties shall not raise any arguments not previously raised with the other side in the applicable demand, response, reply, or meet-and-confer, and shall only cite authorities identified in writing in the applicable demand, response, or reply. The Court shall determine if a hearing is warranted.

6. In the event that Mooney succeeds on an application referred to in paragraph 5 above, in whole or in part, Mooney shall be entitled to indemnification

