

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MASSACHUSETTS**

Town of Lee, Massachusetts

Plaintiff

v.

Monsanto Company;
Solutia Inc.;
Pharmacia LLC and
General Electric Corporation

Defendants.

CA NO: 3:24-CV-30050-MGM

JURY TRIAL DEMANDED

**MOTION TO DEFAULT GENERAL ELECTRIC FOR FAILURE
TO RESPOND TO PLAINTIFF'S RULE 56 MOTION.**

The Town of Lee filed in this Court between May 6 and May 10 of 2024 the following documents:

1. First Amended Complaint. Dkt.#11.2.
2. Motion for Summary Judgment on the Issue of GE Liability. Dkt. #10.1
3. Material Facts as Which There is no Issue to be Tried filed in support of the Motion.
Dkt. # 10.3.
4. Memorandum of Law in Support of Plaintiff's Rule 56 Motion. Dkt. #11.1.
5. Exhibits DJ-1 to DJ-38 in support of the Motion.

The Court issued Summonses on May 21, 2024 for service on Defendants Dkt. #12.

Plaintiff served Defendants on June 4, 2024 the summonses, request for waivers, hard copies of items 1-4, and a flash drive with Exhibits DJ-1 to DJ-38 in accord with FRCP 4(c) , (d) and Local Rule 5 4(e) Dkt # 13.

General Electric granted the waiver (Exhibit-1 Attached). The waiver allows GE 60 days to respond to the First Amended Complaint or in the alternative to file a 12(b)(6) motion. **The waiver does not allow delays in responding to Plaintiff's Rule 56 Motion. Rule 56.1 motion requires a response to be filed within 28 days from the date of service. Twenty-eight days from May 10, 2024 fell on June 8, 2024.**

Given these facts this Honorable Court should default GE on Plaintiff's Motion and find that GE is responsible for damages to be establish at trial.

June 20, 2024

Respectfully submitted

By Attorney for the Town of Lee

s/Cristóbal Bonifaz,

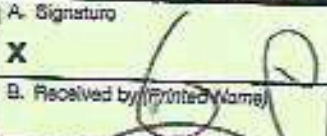
Cristóbal Bonifaz, Esq.

Certificate of Service

I certify that I contacted GE's counsel and asked her if GE would agree to the filing of this motion. GE through its counsel implied that GE will oppose this motion. This document was served through the ECF system on all attorneys of record.

s/Cristóbal Bonifaz, Esq.

EXHIBIT-1

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 1. Article Addressed to: MIKE HOLSTON GENERAL Electric 5 NECCO STREET BOSTON MA 02201 2. Article Number (Transfer from service label) 7020 0090 0001 5164 3022		A. Signature X  ☐ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes ☒ No If YES, enter delivery address below: PORTLAND ME JUN 5 2024 MAIL CAGE	
3. Service type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

U.S. Postal Service™	
CERTIFIED MAIL® RECEIPT	
Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®	
Boston, MA 02210	
Certified Mail Fee	\$4.40
Extra Services & Fees (check box, add fee)	\$12.65
☐ Return Receipt (hardcopy)	\$3.00
☐ Return Receipt (electronic)	\$0.00
☐ Certified Mail Restricted Delivery	\$10.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$11.00
Total Postage and Fees	\$19.05
Postmark	06/04/2024
MIKE HOLSTON GENERAL Electric 5 NECCO STREET BOSTON MA 02210	
PS Form 3800, April 2019 PSN 7530-02-000-1547	See Reverse for Instructions

UNITED STATES DISTRICT COURT

for the
District of Massachusetts

Town of Lee, Massachusetts

Plaintiff

v.

General Electric Company

Defendant

Civil Action No. #:3:24-cv-300050-MGM

WAIVER OF THE SERVICE OF SUMMONS

To: Cristoóbal Bonifaz, Law Office of Cristobal Bonifaz*(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 06/12/2024, 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: 6/17/24

General Electric Company, now
Printed name of party waiving service of summons
Operating as GE Aerospace

Michelle Byers*Signature of the attorney or unrepresented party*Michelle Byers*Printed name*

Campbell, Curray + O'Neil P.C.
20 City Sq., Ste. 300, Boston MA 02129

*Address*mbyers@campbell-trial-lawyers.com*E-mail address*617-241-3000*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.

CAMPBELL CONROY & O'NEIL
PROFESSIONAL CORPORATION

20 CITY SQUARE
SUITE 300
BOSTON, MA 02129
TEL: (617) 241-3000
FAX: (617) 241-5115



MICHELLE M. BYERS
(617) 241-3000
mbvers@campbell-trial-lawyers.com

June 17, 2024

Via Email & U.S. Mail

Cristobal Bonifaz
Law Offices of Cristobal Bonifaz
180 Maple Street
Conway, MA 01341

Re: Town of Lee, Massachusetts v. General Electric Company
USDC, District of MA, C.A. No.: 3:24-cv-30050-MGM

Dear Attorney Bonifaz:

Enclosed please find an executed *Waiver of the Service of Summons*, accepting service on behalf of General Electric Company, now operating as GE Aerospace, in connection with the above-referenced matter.

Thank you for your attention in this regard.

Very truly yours,

Michelle M. Byers

Michelle M. Byers

MMB:ceo
Enclosures

cc: James M. Campbell, Esquire (w/o Encl.)
Christopher B. Parkerson, Esquire (w/o Encl.)