



CJ-2023-2008  
Banner

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA**

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

AMERISOURCEBERGEN DRUG )  
CORPORATION, a Delaware corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
AMY LIEBL DARTER, M.D., P.C., )  
an Oklahoma corporation, )  
 )  
Defendant. )

APR 11 2023

RICK WARREN  
COURT CLERK

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Case No.

**CJ-2023-2008**

**PETITION**

COMES NOW the Plaintiff, AmerisourceBergen Drug Corporation ("ABDC"), and for its  
Petition against Defendant, Amy Liebl Darter, M.D., P.C., alleges and states as follows:

**THE PARTIES**

1. ABDC is a Delaware corporation with a principal place of business at 1 West 1<sup>st</sup> Ave., Conshohocken, PA 19428.
2. Amy Liebl Darter, M.D., P.C. ("Darter MD") is an Oklahoma professional corporation with a place of business located at 1810 E Memorial Rd., Oklahoma City, OK 73131.

**JURISDICTION AND VENUE**

3. Darter MD is subject to personal jurisdiction in Oklahoma because, inter alia, it is an Oklahoma corporation transacting business in Oklahoma.
4. Venue is proper in this county pursuant to 12 OK Stat § 1653 because, inter alia, (a) a substantial part of the events or omissions giving rise to ABDC's claims occurred in Oklahoma County, and (b) Darter MD is a resident of Oklahoma County.

**BACKGROUND**

5. ABDC is a supplier of medical and pharmaceutical products ("Pharmaceuticals").

6. Darter MD is an allergist and immunologist affiliated with hospitals in Oklahoma City.
7. On or about October 5, 2021, Darter MD executed an application for credit (the "Agreement"), pursuant to which, inter alia, it agreed to terms and conditions that would govern the purchase of Pharmaceuticals from ABDC.
8. Pursuant to the Agreement, Darter MD granted ABDC a purchase money security interest in inventory and a lien upon and security interest in substantially all of its assets (the "Collateral").
9. ABDC perfected its lien on the Collateral by filing a UCC-1 financing statement (the "Financing Statement") with the Oklahoma Secretary of State's office on October 12, 2021, as instrument number 2021101202111013.
10. Pursuant to the Agreement, Darter MD agreed to pay for the Pharmaceuticals it ordered and received from ABDC within thirty (30) days from the date of invoice.
11. Pursuant to the Agreement, Darter MD agreed to pay late fees to ABDC at the rate of 18% per annum, and to reimburse ABDC for its costs of collection including, without limitation, ABDC's reasonable attorneys' fees and costs.
12. Darter MD purchased Pharmaceuticals from ABDC pursuant to the Agreement between October 2021 and December 2022.
13. Darter MD regularly received invoices and statements from ABDC reflecting the amounts due for Pharmaceuticals sold to Darter MD. Darter MD never disputed the balances due set forth on the invoices or statements.

14. Despite ordering Pharmaceuticals from ABDC in connection with its business, Darter MD failed and/or refused to make payment for the Pharmaceuticals it purchased from ABDC and, as a result, is in breach of the Agreement.

15. As a result of Darter MD's defaults, all sums owed by Darter MD to ABDC are immediately due and payable in full, including fees and costs incurred by ABDC.

16. By letter dated February 3, 2023, ABDC demanded payment of the outstanding balance from Darter MD.

17. The total outstanding balance due from Darter MD as of March 30, 2023, exclusive of attorneys' fees and costs, is \$1,080,392.63, plus continuously accruing late fees, calculated at the rate of eighteen percent (18%) per annum on all delinquent invoices.

**COUNT I**  
**BREACH OF CONTRACT**

18. ABDC incorporates herein by this reference the foregoing allegations of this Complaint as though they were set forth fully and at length.

19. ABDC had a contractual arrangement with Darter MD whereby ABDC would accept orders from and deliver Pharmaceuticals to Darter MD.

20. Darter MD was obligated to pay for the Pharmaceuticals, as invoiced.

21. Darter MD failed to make payments to ABDC in accordance with its obligations to ABDC and is in default of those obligations.

22. As a result of the foregoing defaults, \$1,080,392.63 is immediately due and payable to ABDC from Darter MD.

WHEREFORE, the plaintiff, AmerisourceBergen Drug Corporation, demands judgment against Amy Liebl Darter, M.D., P.C., in the amount of \$1,080,392.63, plus interest on all

delinquent invoices from and after March 31, 2023, at the rate of 18% per annum, and such other and further relief as is just and proper including cost of this action and attorney fees as allowed by law.

**COUNT II**  
**BREACH OF ACCOUNT STATED**

23. ABDC incorporates herein by this reference the allegations set forth in the foregoing paragraphs of this Complaint, as though they were set forth fully and at length.

24. ABDC had an ongoing business relationship with Darter MD, pursuant to which ABDC delivered Pharmaceuticals to Darter MD and Darter MD was required to pay for such Pharmaceuticals in accordance with the terms of various statements of account sent from ABDC to Darter MD.

25. ABDC invoiced Darter MD in a timely fashion for the Pharmaceuticals detailed above, which Pharmaceuticals were shipped at Darter MD's request.

26. Darter MD had an opportunity to review the relevant invoices and raise any objections regarding the accuracy of the information contained therein including, among other things, the amount stated as due.

27. Darter MD did not object to the amounts set forth in ABDC's invoices.

28. Despite repeated demand, Darter MD has failed to pay ABDC the total amounts due as invoiced. A balance remains due.

29. As a result of Darter MD's failure to pay its accounts as stated, ABDC has been damaged in the amount of \$1,080,392.63.

WHEREFORE, the plaintiff, AmerisourceBergen Drug Corporation, demands judgment against Amy Liebl Darter, M.D., P.C., in the amount of \$1,080,392.63, plus interest on all delinquent invoices from and after March 31, 2023, at the rate of 18% per annum, and such other

and further relief as is just and proper including cost of this action and attorney fees as allowed by law.

**COUNT III**  
**UNJUST ENRICHMENT**  
**(In the Alternative)**

30. ABDC incorporates herein by this reference the allegations set forth in paragraphs 1-6, 15-18, and 25-30 of this Complaint, as though they were set forth fully and at length.

31. Alternatively, Darter MD has been unjustly enriched at ABDC's expense.

32. ABDC conferred a benefit upon Darter MD, to which Darter MD was not entitled, by providing Darter MD with the Pharmaceuticals.

33. Despite repeated demand, Darter MD has refused to return the Pharmaceuticals and/or to pay for them.

34. By accepting delivery of the Pharmaceuticals supplied by ABDC, retaining them, and not paying ABDC for them, Darter MD has been unjustly enriched at ABDC's expense, in the amount of \$1,080,392.63, thereby damaging ABDC.

WHEREFORE, the plaintiff, AmerisourceBergen Drug Corporation, demands judgment against Amy Liebl Darter, M.D., P.C., in the amount of \$1,080,392.63, plus interest on all delinquent invoices from and after March 31, 2023, at the rate of 18% per annum, and such other and further relief as is just and proper including cost of this action and attorney fees as allowed by law.

**COUNT IV**  
**REPLEVIN**

35. ABDC incorporates by this reference the allegations set forth in the preceding paragraphs as though they were set forth fully and at length.

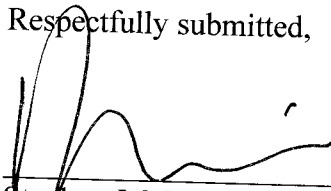
36. Under the terms of the Agreement, ABDC became entitled to possession of the Collateral upon Darter MD's default.

37. Darter MD has failed to deliver possession of the Collateral to ABDC, including but not limited to its cash on hand, cash on deposit, and the proceeds of its accounts receivable.

WHEREFORE, the plaintiff, AmerisourceBergen Drug Corporation, demands judgment against Amy Liebl Darter, M.D., P.C., as follows:

- A. For immediate possession of the Collateral;
- B. For judgment in the amount of \$1,080,392.63, plus interest on all delinquent invoices from and after March 31, 2023, at the rate of 18% per annum;
- C. Reasonable attorneys' fees and costs; and
- D. For such other and further relief as is this Court deems just and proper.

Respectfully submitted,



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Attorney lien claimed  
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