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14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF WASHINGTON

16 THOMAS TABBERT,)	
)	NO.
17 Plaintiff,)	
)	COMPLAINT AND DEMAND
18 vs.)	FOR TRIAL BY JURY FOR
)	DISCRIMINATION, BREACH OF
19 HOWMEDICA OSTEONICS CORP.)	CONTRACT, VIOLATION OF
d/b/a STRYKER HOWMEDICA)	WAGE LAW AND
20 OSTEONICS, a New Jersey corporation,)	FOR DECLARATORY RELIEF
)	
21 Defendant.)	
)	

22 **I. INTRODUCTION**

23 1. Our country recognizes the principle that an employee's workplace
24 advancement rises and falls on account of one's competence, not choice of
25

1 religion. This principle does not remain relevant on its own. Citizens of our
2 country must enforce it, sometimes through court action. Tom Tabbert recognized
3 the importance of that principle, reported workplace religious discrimination, and
4 suffered retaliation as a result.

5
6 2. Beginning in mid-2011 Tom Tabbert noticed Defendant Stryker
7 Howmedica Osteonics (Stryker) hiring members of the Church of Jesus Christ of
8 Latter-day Saints (LDS) into medical implant sales positions and assigning those
9 LDS employees lucrative LDS clients. The company's actions, all lacking a
10 legitimate non-discriminatory reason, negatively affected Mr. Tabbert's pay and
11 prevented other more-qualified non-LDS individuals to gain employment and
12 advancement at Stryker.

13
14 3. On April 29, 2014, Mr. Tabbert complained to his supervisor, Duane
15 Riggs, about the company's hiring of an unqualified LDS employee. Mr. Tabbert,
16 a decade-long employee of Defendant with managerial hiring experience and well
17 aware of the qualifications needed to make a productive salesperson, objected to
18 the LDS hiring favoritism as the other two candidates were objectively better
19 qualified for the job. On May 9, 2014, the company issued Mr. Tabbert a letter of
20 reprimand - - - a first in Mr. Tabbert's professional career. The retaliation did not
21 end there.
22
23
24
25

1 On June 10, 2014 Mr. Tabbert resigned from Defendant. Defendant, per the
2 contract it sent to Mr. Tabbert (and required Mr. Tabbert sign) in 2003, agreed to
3 pay Mr. Tabbert severance wages. Yet Defendant, although on notice, refuses to
4 honor the 2003 contract. Such conduct constitutes retaliation, a breach of
5 contract, and violation of Washington's wage statutes. Mr. Tabbert now brings
6 this lawsuit.
7

8 Mr. Tabbert demands a jury trial and to be awarded full compensation for
9 all injury and damages he has suffered along with reasonable attorney fees, costs,
10 interest, and negative tax consequences of any award.
11

12 **II. PARTIES**

13 4. Plaintiff Thomas Tabbert ("Mr. Tabbert") is a resident of the State of
14 Washington and resided in Washington at all times relevant to this lawsuit.
15

16 5. Defendant Howmedica Osteonics Corporation d/b/a Stryker
17 Howmedica Osteonics ("Stryker") is a New Jersey corporation that is licensed to
18 conduct business in the State of Washington and has been licensed to conduct
19 business in Spokane, Washington since October 15, 2012.
20

21 **III. JURISDICTION AND VENUE**

22 6. This Court has jurisdiction pursuant to 28 U.S.C. §1332 as the parties
23 reside in different states and the amount in controversy exceeds \$75,000.00.
24
25

1 Supplemental jurisdiction exists under 28 U.S.C. § 1367.

2 7. Venue is appropriate under 28 U.S.C. §1391(b) because the events
3 giving rise to this Complaint occurred in this district.

4 **IV. FACTS**

5 8. Osteonics Corporation, a corporate entity different than the Stryker
6 Defendant in this lawsuit, hired Mr. Tabbert in 1995 to work in a sales capacity.
7 That same year Mr. Tabbert entered into an employment contract with Osteonics.
8 A true and correct copy of the 1995 employment contract (hereinafter “Osteonics
9 Agreement”) is attached hereto as Exhibit A.
10
11

12 9. During the course of executing the Osteonics Agreement Mr. Tabbert
13 made a copy of the Osteonics Agreement, signed one copy of the Osteonics
14 Agreement, sent the signed copy of the Osteonics Agreement to management, and
15 maintained the unsigned copy of the Osteonics Agreement.
16

17 10. On or about December 4, 1998, Stryker acquired Howmedica, Pfizer,
18 Inc.’s orthopedic division.
19

20 11. In 2003 Rob Behrens, Mr. Tabbert’s supervisor, handed Mr. Tabbert a
21 document called “Howmedica Osteonics Corp. d/b/a Stryker Howmedica
22 Osteonics Employee Non-Compete Agreement” (hereinafter “Howmedica
23 Agreement”). A true and correct copy of the 2003 Howmedica Agreement is
24
25

1 attached hereto as Exhibit B.

2 12. Mr. Behrens instructed Mr. Tabbert to sign the agreement. Mr.
3 Tabbert, as was his practice with regard to signing the Osteonics Agreement, made
4 two copies of the Howmedica Agreement, signed one copy of the Howmedica
5 Agreement, and gave the signed copy to April Pratt, Defendant's Missoula,
6 Montana (Stryker's main regional office) office manager.
7

8 13. Upon information and belief, Ms. Pratt transmitted Mr. Tabbert's
9 signed Howmedica Agreement to Stryker's corporate headquarters.
10

11 14. Upon information and belief Stryker maintained (and maintains) a
12 practice or policy in which it does not return signed non-compete agreements (like
13 the 2003 Howmedica Agreement) to its sales representatives.
14

15 15. The bottom left hand corner of each page of the 2003 Howmedica
16 Agreement contains the number 573287.04. Such numbers are customarily used
17 by law firms as a document labeling scheme so as to allow attorneys working on
18 the document to, for example, identify the most recent version of the document
19 and/or retrieve the document from the law firm's electronic document repository.
20

21 16. Upon information and belief, Stryker, or the agent/law firm utilized to
22 draft the Howmedica Agreement, created the Howmedica Agreement and assigned
23 the 573287.04 number to the Howmedica Agreement.
24
25

1 17. Indeed, in 2011 Stryker filed the *Howmedica Osteonics Corp. v.*
2 *Zimmer, Inc.* et a. 2:11-cv-01857-DMC-JBC lawsuit in which it sought to enforce
3 the same restrictive covenant Mr. Tabbert signed. Exhibit E to Stryker's
4 Complaint in the *Howmedica v. Zimmer* action substantively mirrors the 2003
5 Howmedica Agreement and contains the 573287.04 identifying number.
6

7 18. The Howmedica Agreement provides, in part, that upon termination
8 of Mr. Tabbert's employment Stryker "shall make severance payments to
9 Employee on a monthly basis for the period that the Restrictions are in effect, with
10 each monthly payment being equal to one-twelfth of the aggregate commissions
11 paid to Employee by Company for the twelve (12) months preceding the
12 Termination Date."
13

14 19. From Mr. Tabbert's 1995 hire with Osteonics, through Mr. Tabbert's
15 employ with Stryker, through May 8, 2014, Mr. Tabbert performed satisfactory
16 work and was one of the top sales-persons in his branch.
17

18 20. Indeed, from Mr. Tabbert's 1995 hire with Osteonics, through Mr.
19 Tabbert's employment with Stryker, to May 8, 2014, Mr. Tabbert was not formally
20 or informally disciplined for any reason.
21

22 21. But on May 9, 2014, Mr. Tabbert, without warning, received a letter
23 of reprimand from his supervisor Duane Riggs. Mr. Rigg's no-notice letter of
24
25

1 reprimand came less than two weeks after Mr. Tabbert, on April 29, 2014,
2 complained to Duane Riggs about religious discrimination Mr. Tabbert observed in
3 the workplace.

4 22. Mr. Tabbert's April 29, 2014, complaint arose out of Stryker's hiring
5 of employee John Caffaro. Mr. Tabbert had a good faith reasonable belief that Mr.
6 Caffaro's hiring violated both company policy and the law by virtue of Stryker
7 hiring Mr. Caffaro because of Mr. Caffaro's membership in the Church of Jesus
8 Christ of the Latter-day Saints (LDS).
9

10 23. Upon information and belief Mr. Riggs, also a member of the LDS
11 church, wanted Mr. Caffaro hired because Mr. Caffaro's father was the Brigham
12 Young University (BYU) football coach slated to become BYU's Admissions
13 Director who, by virtue of such positions, could facilitate Mr. Riggs' children's
14 admission into BYU - - - a university affiliated with the LDS church.
15

16 24. Mr. Tabbert's April 29, 2014, report – to Mr. Riggs – of religious
17 discrimination, was a culmination of pro-LDS hiring, placement, and promotion
18 practices Mr. Tabbert, and other Stryker employees witnessed, since, at least, 2011.
19

20 25. Accordingly, witnessing Stryker hire Mr. Caffaro over more qualified
21 non-LDS employees drove Mr. Tabbert to complain to Mr. Riggs of Stryker's
22 discriminatory activity.
23
24
25

1 26. On May 9, 2014, Mr. Tabbert, for the first time in his career - - or
2 adult working life - - received a letter of reprimand. Ironically, the letter of
3 reprimand falsely accused Mr. Tabbert of religious discrimination.

4 27. On May 26, 2014, Mr. Tabbert filed a written discrimination and
5 retaliation complaint with Stryker HR representative Jenny Lavey.
6

7 28. On June 10, 2014, Mr. Tabbert resigned from Stryker.

8 29. As of June 10, 2014, to the present, Mr. Tabbert had not, and has not,
9 breached any duty of loyalty to Stryker.
10

11 30. As of June 10, 2014, to the present, Mr. Tabbert had not, and has not,
12 breached the terms and conditions of the 2003 Howmedica Agreement.

13 31. As of June 10, 2014, to the present, Mr. Tabbert had not, and has not,
14 breached any other agreement Mr. Tabbert had with Stryker.
15

16 32. Stryker did not terminate Mr. Tabbert's employment for cause.

17 33. Stryker did not terminate Mr. Tabbert's employment because Mr.
18 Tabbert acted in bad faith or contrary to the law.
19

20 34. Stryker did not, as allowed under paragraph 3(b), waive enforcing the
21 covenant not to compete restrictions contained in the 2003 Howmedica Agreement.
22 Accordingly, by not waiving the covenant not to compete restrictions, Howmedica
23 was required to pay Mr. Tabbert the wages described in the 2003 Howmedica
24
25

1 Agreement.

2 35. Although required to do so under the 2003 Howmedica Agreement,
3 Stryker has not paid Mr. Tabbert the wages due to Mr. Tabbert under the 2003
4 Howmedica Agreement.

5 36. Stryker, under the 2003 Howmedica Agreement, was to pay Mr.
6 Tabbert “the fifteenth (15th) day of the month after the month in which Employee
7 last received a commission or other compensation payment from Company.”
8

9 37. Mr. Tabbert “last received...compensation from” Stryker in July
10 2014.
11

12 38. Accordingly, the 2003 Howmedica Agreement obligated Stryker to
13 pay Mr. Tabbert on August 15, 2014 in accordance with paragraph 3(b), of the
14 2003 Howmedica Agreement.
15

16 39. Stryker did not pay, or otherwise compensate, Mr. Tabbert on August
17 15, 2014, or at any other time following Mr. Tabbert’s departure from Stryker.
18

19 40. In July 2014 Mr. Tabbert sought clarification from Ms. Lavey as to
20 whether Stryker would hold Mr. Tabbert to the 2003 Howmedica Agreement’s
21 restrictive covenants. Ms. Lavey vaguely informed Mr. Tabbert that the non-
22 compete was “non-compensatory.”
23

24 41. On August 15, 2014, Mr. Tabbert, not having received an informative
25

1 answer to his July 2014 query of Ms. Lavey, informed Mr. Riggs and Ms. Lavey
2 that he (Tabbert) would begin selling to Mr. Tabbert's customers given Stryker's
3 failure to pay Mr. Tabbert in accordance with the 2003 Howmedica Agreement.

4 42. On September 24, 2014, Stryker, via letter, informed Mr. Tabbert that
5 he was bound not by the 2003 Howmedica Agreement but, instead, the 1995
6 Osteonics Agreement's restrictive covenant components. In the same September
7 24, 2014, letter Stryker accused Mr. Tabbert of violating the 1995 Osteonics
8 Agreement.
9

10 43. On October 1, 2014, Mr. Tabbert denied Stryker's accusations
11 regarding the non-compete violations, transmitted (to Stryker) Mr. Tabbert's
12 unsigned copy of the 2003 Howmedica Agreement, informed Stryker that Mr.
13 Tabbert's records reflected that he executed the 2003 Howmedica Agreement on
14 August 14, 2003, and informed Stryker that Stryker required Mr. Tabbert to
15 execute the 2003 Howmedica Agreement.
16

17 44. On October 8, 2014, Stryker claimed it had "no record" of Mr.
18 Tabbert signing the 2003 Howmedica Agreement and, again, informed Mr. Tabbert
19 that he was bound by the 1995 Osteonics Agreement.
20

21 **V. CLAIMS**

22 **(Violation of Washington's Law Against Discrimination – Discrimination &**
23
24
25

Retaliation)

1
2
3 45. “Disparate treatment occurs when an employer treats some people less
4 favorably than others because of race, color, **religion**, sex, or other protected
5 status.” *Hegwine v. Longview Fibre Co.*, 162 Wn.2d 340, 354 n. 7 (2007)
6 (Emphasis Added).

7
8 46. “To establish a prima facie disparate treatment discrimination case, a
9 plaintiff must show that his employer simply treats some people less favorably
10 than others because of their protected status.” *Johnson v. Dep't of Soc. & Health*
11 *Servs.*, 80 Wn.App. 212, 226 (1996).

12
13 47. Stryker, from 2011 to Mr. Tabbert’s June 10, 2014, departure from
14 Stryker’s employment treated members of the LDS faith more favorable than non-
15 LDS members.

16
17 48. By way of a limited example, Mr. Tabbert’s sales territory
18 encompassed eleven surgeons within a 200 mile territory. Mr. Tabbert’s
19 compensation is substantially based off of the product Mr. Tabbert sells to those
20 surgeons. Four of those surgeons were/are of the LDS faith.

21
22 49. In the March 2011 timeframe Mr. Tabbert sought an audience with
23 two Spokane Valley, Washington surgeons so as to develop a client relationship
24
25

1 with those individuals. Those surgeons were/are members of the LDS church. Mr.
2 Tabbert worked with Duane Riggs' assistant, Spencer Nead, to arrange the client
3 meetings. However, shortly before the meetings were to take place, Mr. Nead,
4 acting on Mr. Riggs' behalf, informed Mr. Tabbert that Mr. Riggs was hiring a
5 sales representative with "a relationship" with the surgeons.
6

7 50. The sales representative Stryker hired to establish a relationship with
8 the surgeons is named Brock Reichner. Mr. Reichner is LDS.

9
10 51. Mr. Tabbert's loss of the client relationship with the two Spokane
11 Valley surgeons cost Mr. Tabbert tens of thousands of dollars of lost earnings.

12 52. In April 2013 Mr. Tabbert's sales associate, Jeff Pilger, quit work
13 which, in turn, caused Mr. Tabbert to immediately need an additional sales
14 representative as any delay would result in loss of earnings inuring to Mr. Tabbert.
15

16 53. Mr. Tabbert nominated a well-qualified individual to replace Mr.
17 Pilger and suggested Mr. Riggs meet with the potential employee. Mr. Riggs
18 refused to meet with Mr. Tabbert's nominee. Instead, Mr. Riggs took steps to hire
19 Rhett Tibbets, a member of the LDS church.
20

21 54. Although Mr. Tabbert needed a replacement in April 2013, Stryker
22 first sought to hire Mr. Tibbets, who was not available until August 2013.

23 55. When Mr. Tibbets declined the position Stryker employee Brock
24
25

1 Reichner (who is a member of the LDS church) sought to have fellow LDS
2 employee Blake Gibbons occupy the position vacated by Mr. Pilger.

3 56. With Mr. Pilger's position still open (and Mr. Tabbert losing earnings
4 as a result) Mr. Tabbert nominated Steve Day for the position. Mr. Day had
5 experience as a registered nurse, worked in the medical sales field for over nine
6 years, and was respected in the local medical sales community. Mr. Day's
7 relationship with surgeons in the community was a significant factor Mr. Tabbert
8 took into consideration when nominating Mr. Day as a salesperson's relationships
9 with the surgeons is key indicator of potential profitability.
10
11

12 57. Mr. Riggs refused to hire Mr. Day. Instead Mr. Riggs hired John
13 Caffaro, a LDS member and recent college graduate with no medical sales
14 experience.
15

16 58. Stryker hired Mr. Caffaro on or about April 17, 2014.

17 59. Stryker's delay in filling the sales position Mr. Pilger vacated in 2013
18 caused Mr. Tabbert additional economic loss given the delay in filling a critical
19 sales associate position.
20

21 60. Chapter 49.60 RCW ("WLAD") provides, in part, that "[i]t is an
22 unfair practice for any employer, employment agency, labor union, or other person
23 to discharge, expel, or otherwise discriminate against *any person* because he or she
24
25

1 has *opposed any practices forbidden by this chapter*, or because he or she has filed
2 a charge, testified, or assisted in any proceeding under this chapter.” *Lodis v.*
3 *Corbis Holdings, Inc.*, 172 Wn. App. 835, 847-48 (2013) (citation omitted &
4 emphasis added).

5
6 61. On April 29, 2014, Mr. Tabbert, as described above, opposed
7 Stryker’s unlawful practice of hiring LDS employee John Caffaro.

8
9 62. On May 9, 2014, Stryker retaliated against Mr. Tabbert by issuing him
10 a letter of reprimand. As a result, Mr. Tabbert was forced to leave employment
11 with Stryker because of the discriminatory and retaliatory treatment that he
12 received at the hands of Stryker which made it untenable to continue to work for
13 Stryker and created a glass ceiling as to his future economic opportunities with
14 Stryker.

15
16 63. On July 15, 2015, Stryker retaliated against Mr. Tabbert by refusing to
17 pay Mr. Tabbert in accord with the 2003 Howmedica Agreement. On October 8,
18 2014, Stryker further retaliated against Mr. Tabbert by denying it had any
19 obligations to Mr. Tabbert under the 2003 Howmedica Agreement.

20
21 64. Defendant’s discrimination and retaliation caused Mr. Tabbert harm
22 in an amount that will be proven at trial.

23
24 **(Violation of Washington’s Wage Payment Act & Wage Rebate Act)**

1 65. Washington's Wage Payment Act (WPA) provides, in part, "[w]hen
2 any employee shall cease to work for an employer, whether by discharge or by
3 voluntary withdrawal, the wages due him on account of his employment shall be
4 paid to him at the end of the established pay period." RCW 49.48.010.
5

6 66. The 2003 Howmedica Agreement, paragraph 3, sets out Mr.
7 Tabbert's "established pay period[s]."

8 67. Stryker violated RCW 49.48.010, *et seq.*, by failing to pay Mr.
9 Tabbert's wages in accordance with the 2003 Howmedica Agreement as that
10 agreement sets out established pay periods for which Stryker has not complied.
11

12 68. Washington's Wage Rebate Act (WRA), RCW 49.52.050(2), makes it
13 unlawful for an employer to "[w]ilfully and with intent to deprive the employee of
14 any part of his or her wages, shall pay any employee a lower wage than the wage
15 such employer is obligated to pay such employee by any statute, ordinance, or
16 contract."
17

18 69. Stryker violated Washington's WRA by failing to pay Mr. Tabbert in
19 accordance with the 2003 Howmedica Agreement's terms. The 2003 Howmedica
20 Agreement is a "contract" under the WRA and Stryker's refusal to pay Mr. Tabbert
21 in accord with that contract constitutes Stryker's willful and knowing intent to
22 deprive Mr. Tabbert of his wages.
23
24
25

(Breach of Contract)

1
2 70. In order to plead a breach of contract claim a plaintiff must establish a
3 contractual duty, the duty's breach, and the breach proximately caused damage to
4 the plaintiff. *Nw. Indep. Forest Mfrs. v. Dep't of Labor & Indus.*, 78 Wn. App.
5 707, 712 (1995).
6

7 71. Upon information and belief, Stryker required its employees to sign
8 agreements substantially similar (i.e. the same in every aspect except the
9 employee's name) to the 2003 Howmedica Agreement entered into with Mr.
10 Tabbert.
11

12 72. Upon information and belief, Stryker employees Dean Plaster, Ric
13 Fix, Gregg Switzer, Mike Young, and Dave Behrens executed agreements
14 substantially similar (i.e. the same in every aspect except the employee's name) to
15 the 2003 Howmedica Agreement.
16

17 73. Former Stryker employees Mike Rose and Jerry Traynham executed
18 agreements substantially similar to the 2003 Howmedica Agreement.
19

20 74. Stryker has litigated actions arising out of or related to agreements
21 substantially similar to the 2003 Howmedica Agreement with regard to other
22 Stryker employees.
23

24 75. Stryker would not have allowed Mr. Tabbert to remain in its employ
25

1 had Mr. Tabbert not executed the 2003 Howmedica Agreement.

2 **(Promissory Estoppel)**

3 76. Mr. Tabbert, in the alternative, brings a promissory estoppel claim.

4 77. In order to prevail on a claim of promissory estoppel the plaintiff must
5 establish “(1) [a] promise which (2) the promisor should reasonably expect to
6 cause the promisee to change his position and (3) which does cause the promisee to
7 change his position (4) justifiably relying upon the promise, in such a manner that
8 (5) injustice can be avoided only by enforcement of the promise.” *Havens v. C &*
9 *D Plastics, Inc.*, 124 Wn.2d 158, 171-72 (1994).
10
11

12 78. Stryker via its conveyance of the 2003 Osteonics Agreement to Mr.
13 Tabbert, promised to, *inter alia*, relieve Mr. Tabbert of all covenant not to compete
14 obligations or, alternatively, compensate Mr. Tabbert through the payment of
15 wages the year following Mr. Tabbert’s departure from Stryker.
16

17 79. By conveying the 2003 Osteonics Agreement to Mr. Tabbert Stryker
18 reasonably expected Mr. Tabbert to continue to work for Stryker, as opposed to
19 find work elsewhere.
20

21 80. Mr. Tabbert, in relying on the promises conveyed to Mr. Tabbert via
22 the 2003 Osteonics Agreement, changed his position by continuing to work for
23 Stryker after receiving the 2003 Osteonics Agreement as opposed to finding work
24
25

1 elsewhere.

2 81. Mr. Tabbert's reliance on Stryker's above-referenced promises was
3 justifiable as corporate entities customarily have employees sign employment
4 agreements and Mr. Tabbert had every expectation that Stryker – a large corporate
5 entity with a robust HR department - would maintain a copy of the signed 2003
6 Osteonics Agreement and honor that agreement on Mr. Tabbert's departure.
7

8 82. Injustice can only be avoided by enforcement of the promise insofar
9 as Stryker, via the 2003 Osteonics Agreement it conveyed to Mr. Tabbert, (a)
10 agreed to pay Mr. Tabbert in accord with the agreement should Stryker hold Mr.
11 Tabbert to its restrictive covenants, (b) is holding Mr. Tabbert to restrictive
12 covenants, but (c) is not compensating Mr. Tabbert.
13
14

15 **(Declaratory Judgment 28 U.S.C. § 2201-2202)**

16 83. The Declaratory Judgment Act applies in diversity jurisdiction cases,
17 grants a court discretion to award declaratory relief in cases within its jurisdiction,
18 and such relief is appropriate provided it serves a useful purpose in clarifying and
19 settling the legal relations at issue. *Guerra v. Sutton*, 783 F.2d 1371, 1376 (9th
20 Cir.1986).
21

22 84. In order to have a declaratory judgment proceeding the moving party
23 must establish (a) an actual case or controversy (b) within the court's jurisdiction.
24
25

1 85. As to point (a), an actual case or controversy exists as to whether Mr.
2 Tabbert is subject to the 1995 Agreement. Courts of this circuit consistently utilize
3 the Declaratory Judgment Act to determine the enforceability of a covenant not to
4 compete. *See generally Mahoney v. Depuy Orthopaedics, Inc.*, 2007 WL 3341389,
5 at *9 (E.D. Cal. Nov. 8, 2007).
6

7 86. As to point (b), the court has jurisdiction over the parties and claims
8 under 28 U.S.C. § 1332 as the parties reside in different states, Washington and
9 New Jersey, and the amount in controversy exceeds \$75,000.00
10

11 87. The 1995 Agreement is invalid under Washington (and New Jersey)
12 law because the 1995 Agreement is between Osteonics and Mr. Tabbert. Since
13 Howmedica Osteonics is not a party to the 1995 Agreement it lacks standing to
14 enforce the contract. As such, Mr. Tabbert seeks a declaration that the 1995
15 Agreement does not apply to the above-referenced controversy between Mr.
16 Tabbert and Stryker.
17

18 88. Additionally, upon information and belief, the 1995 Osteonics
19 Agreement was not assigned to Howmedica Osteonics when Stryker acquired
20 Howmedica Osteonics which, in turn, renders the 1995 Osteonics Agreement
21 invalid.
22

23 89. No parallel litigation exists between the parties with regard to any of
24
25

1 the above-referenced claims.

2 **VI. PRAYER FOR RELIEF**

3
4 Plaintiff respectfully prays that this Honorable Court enter an Order
5 providing Plaintiff all remedies available to him by law, including, but not limited
6 to, an award of:

7 (a) Front pay, back pay, lost wages, liquidated damages, adverse tax
8 consequences as to economic damages under the WLAD, general damages under
9 the WLAD, declaratory and injunctive relief, and all other damages and relief
10 allowed under the WLAD, MWA, WPA, and 2003 Howmedica Agreement;

11
12 (b) Attorneys' fees, costs, and litigation expenses; and,

13 (c) Such other and further relief as the Court deems just or equitable.
14

15 DATED this ___ day of February, 2015.

16 CROTTY & SON LAW FIRM, PLLC

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