

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

**BEST MEDICAL BELGIUM, INC.
a Virginia corporation, and
BEST MEDICAL BELGIUM, S.A., a
foreign corporation,**

Plaintiff,

v.

**THE KINGDOM OF BELGIUM;
BELGIAN TRADE COMMISSION –
WALLONIA INVESTMENT AND TRADE
OFFICE; ROBERT BAERT; THIERRY
BOSLY; PIERRE-E. CORNIL, and
NADINE DUQUESNE**

Defendants.

JOINTLY AND SEVERALLY

Case No.:

Hon.

COMPLAINT AND JURY DEMAND

Plaintiffs, BEST MEDICAL BELGIUM, Inc. and BEST MEDICAL BELGIUM, S.A., hereby file their Original Complaint against all Defendants and would show the Court the matters set forth below.

THE PARTIES

1. Plaintiff Best Medical Belgium, Inc. is a Virginia corporation with its principal place of business at 7643 Fullerton Road, Springfield, Virginia 22153. Best Medical Belgium, Inc. is the owner and majority shareholder of Best Medical Belgium, S.A. Best Medical Belgium is a manufacturer and supplier of radioactive isotopes used in the treatment of cancer as well as gamma radiography devices and sealed sources for non-destructive testing.

2. Defendant Belgian Trade Commission – Wallonia Investment and Trade Office (BTC-WIT) is an instrumentality of the Kingdom of Belgium with offices in the United States and is entrusted with promoting trade and business opportunities between Belgian and American companies. Defendant BTC-WIT has a principal place of business at Peachtree Center, 235 Peachtree St. NE, North Tower, Suite 820, Atlanta, Georgia, 30303.

3. The Kingdom of Belgium is a sovereign state responsible and liable for the wrongful acts of its employees, servants, agents and instrumentalities.

4. Defendant Robert Baert is the delegated judge appointed by the Commercial Court of Charleroi pursuant to Belgium's Law on the Continuity of Companies subsequent to Best Medical Belgium S.A.'s application for Procedure de Reorganisation Judiciaire (PRJ) and had a duty to be unbiased and communicate truthful, accurate, unbiased reports to the Court which appointed him.

5. Defendant Thierry Bosly is the co-administrator appointed by the Commercial Court of Charleroi upon the recommendation of Defendant Baert to manage Plaintiffs' business in Belgium and had a fiduciary duty to manage the business in a reasonable and prudent manner that was in the best interest of the business and devoid of bias and partiality. He also had a duty to report facts that are truthful and accurate to the Commercial Court of Charleroi and Delegate Judge Baert.

6. Defendant Pierre-E. Cornil is the co-administrator appointed by the Commercial Court of Charleroi upon the recommendation of Defendant Baert to manage Plaintiffs business in Belgium and had a fiduciary duty to manage Best Medical Belgium, S.A. in a reasonable and prudent manner that was in the best interest of the business devoid of bias and partiality. He also

had a duty to report facts that are truthful and accurate to the Commercial Court of Charleroi and Delegate Judge Baert.

7. Defendant Nadine Duquesne, at all relevant times was an employee of Best Medical Belgium, S.A. and owed a duty of loyalty and confidentiality to her employer, Best Medical Belgium, S.A.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action under 28 U.S.C. §1330, §1332(a)(2), and the Foreign Sovereign Immunities Act, 28 U.S.C. §1602. The matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

9. The Defendant Kingdom of Belgium, although a sovereign state, does not enjoy immunity from the jurisdiction of this Court because this action is based on the exceptions stated in the Foreign Sovereign Immunities Act, 28 U.S.C. §1602, *et. seq.* Specifically, the exception states that:

A foreign state shall not be immune from the jurisdiction of the courts of the United States, or of the States in any case – (3) in which rights in property taken in violation of international law are in issue ... and that property, or any property exchanged for such property, is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity within the United States.” 28 U.S.C. §1605(a)(3).

Furthermore, this Court has personal jurisdiction over the Kingdom of Belgium pursuant to the exceptions within the Foreign Sovereign Immunities Act, 28 U.S.C. §1604. *See also*, H.R. Rep. No. 1487, 94th Cong., 2nd Sess., reprinted in 1976 U.S. Code & Admin. News at 6613.

10. The Defendant BTC-WIT, although an instrumentality of the sovereign state of Belgium, does not enjoy immunity from the jurisdiction of this Court because this action is based on the exceptions noted in the Foreign Sovereign Immunities Act, 28 U.S.C. §1602, *et. seq.* Specifically, the exception states that:

- (a) A foreign state shall not be immune from the jurisdiction of the courts of the United States, or of the States in any case - ... (2) in which the action is based upon a Commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere...and that act causes a direct effect in the United States.’

28 U.S.C. §1605(a)(3).

Furthermore, this Court has personal jurisdiction over the BTC-WIT pursuant to the exceptions within the Foreign Sovereign Immunities Act, 28 U.S.C. §1604. *See also*, H.R. Rep. No. 1487, 94th Cong., 2nd Sess., reprinted in 1976 U.S. Code & Admin. News at 6613.

11. Defendant Robert Baert is an official, agent, servant, or employee of the Kingdom of Belgium pursuant to his appointment by the Belgian Commercial Court as Delegate Judge relative to the restructuring of Best Medical Belgium, S.A. The Belgian Commercial Court is also an instrumentality of the sovereign state of Belgium and therefore Defendant does not have immunity pursuant to 28 U.S.C. §1605 (a)(2) and (3). This Court also has jurisdiction pursuant to the Alien Tort Claims Act, 28 U.S.C. §1350 relative to the claims of Best Medical Belgium, S.A. This court has personal jurisdiction over the defendant pursuant to Va. Code §8.01-328.1(c) and 28 U.S.C. §1605(a) in that Defendant regularly conducted business with Best Medical Belgium, Inc., a Virginia Corporation, as a result of the transactions and communications described below.

12. Defendant Thierry Bosly is an official, agent, servant, or employee of the Kingdom of Belgium pursuant to his appointment by the commercial court, pursuant to the advice of Defendant Baert, as Administrator of Best Medical Belgium, S.A. relative to its restructuring. Therefore, Defendant does not have immunity pursuant to 28 U.S.C. §1605(a)(2) and (3). This Court also has jurisdiction pursuant to the Alien Tort Claims Act, 28 U.S.C. §1350 relative to the claims of Best Medical Belgium, S.A. This court has personal jurisdiction over the defendant pursuant to Va. Code §8.01-328.1(c) and 28 U.S.C. §1605(a) in that Defendant

regularly conducted business with Best Medical Belgium, Inc., a Virginia Corporation, as a result of the transactions and communications described below.

13. Defendant Pierre-E. Cornil is an official, agent, servant, or employee of the Kingdom of Belgium pursuant to his appointment by the commercial court, pursuant to the advice of Defendant Baert, as Administrator of Best Medical Belgium, S.A. relative to its restructuring. Therefore, Defendant does not have immunity pursuant to 28 U.S.C. §1605 (a)(2) and(3). This court also has jurisdiction pursuant to the Alien Tort Claims Act, 28 U.S.C. §1350 relative to the claims of Best Medical Belgium, S.A. This court has personal jurisdiction over the Defendant pursuant to Va. Code §8.01-328.1(c) and 28 U.S.C. §1605(a) in that Defendant regularly conducted business with Best Medical Belgium, Inc., a Virginia Corporation, as a result of the transactions and communications described below.

14. That the wrongful conduct of Defendant Nadine Duquesne, arises from her employment with Best Medical Belgium, S.A. This court has jurisdiction pursuant to the Alien Tort Claims Act, 28 U.S.C. §1350 relative to the claims of Best Medical Belgium, S.A. This Court also has personal jurisdiction over the defendant pursuant to Va. Code §8.01-328.1(c) in that Defendant regularly conducted business with Best Medical Belgium, Inc., a Virginia corporation, as a result of the transactions and communications between Best Medical Belgium, Inc., a Virginia corporation and Best Medical Belgium, S.A., a Belgian Corporation.

15. Venue is proper in this Court pursuant to 28 U.S.C. §1391(f)(1).

FACTUAL BACKGROUND

16. On November 26, 2010, Defendant BTC-WIT's agent Jean Pierre Marcelle, sent an e-mail correspondence to Krishnan Suthanthiran, President of Plaintiff, Best Medical Belgium, Inc. that represented the following:

To support the establishment of prospective foreign investors, the Wallonia Government set up a specially trained team in the year 2000 with the objective of assisting all foreign investors in the implementation of their investment project in Wallonia. This team called the Office for Foreign Investors (O.F.I.) forms part of the public Wallonia Agency for Exports and Foreign Investment. With the support of public and private players, O.F.I. will assist you at all stages of your project in successfully establishing your business in Wallonia. It achieves this by providing invaluable advice and by guiding you through the following steps in particular: Choice of location, Grant schemes, Tax regime, Recruitment and training of staff, Financing arrangements for your projects and beyond.”

17. Included with the aforementioned email were two (2) documents entitled “*Your Project in Wallonia, Belgium, and 10 Good Reasons to Invest in Wallonia.*”

18. These aforementioned documents offered factual representations of various financial incentives and support in exchange for investing in Wallonia, Belgium. Specifically, the *Your Project in Wallonia, Belgium* document, included incentives of cash grants of up to 15% of the total investment for businesses investing in Wallonia. The document also provided fiscal incentives of real estate tax incentives as well as employee training incentives and Research and development incentives that provided as follows:

For industrial research (= basic research): a 50% subsidy (60% if cooperation)

For experimental development (= applied research): a 40% advanced loan (40% subsidy or 55% advanced loan if cooperation)

Partnership for technological innovation:

- a. A 60% subsidy in industrial research
- b. A 40% subsidy or a 55% advanced loan in experimental development
- c. Eligible expenses are: salary costs for R&D and support workforce, equipment, subcontracting expenses for R&D studies, consulting, licensing, other expenses, raw material and consumables.

19. The *10 Good Reasons to Invest in Wallonia* represented the following:

A complete system of financial incentives has been implemented to make it easier to set up a business in Wallonia.

These incentives not only are a significant contribution to the cost of setting up a business (up to 20%), they also lower tax and social costs, promote hiring and staff training, make it easier to pay for consulting,

help with export plans and promote the use of renewable energy and environment initiatives.

In addition, several very useful European financial assistance programs are also available.

Moreover, access to venture capital is made easy thanks to a large number of public or private funds, readily available to participate in creating or expanding successful businesses. In Wallonia, more than elsewhere, businesses have the reputation of offering a high return on investment in the medium range.

20. On January 12th and 13th, 2011, at the International Home Builder's Show in Orlando, Florida, Mr. Krishnan Suthanthiran, President of Best and Mr. Shawn Weingast, Business Manager and General Counsel of Best met with Ms. Djaziz Filoso and Ms. Deidre Harris who were agents and/or employees of the Defendant. During these meetings, Ms. Harris and Ms. Filoso verbally represented to Mr. Suthanthiran and Mr. Weingast that the "Wallonia Region would provide consulting services as well as financial support and incentives to the Plaintiff in return for investing in Belgium."

21. On or about March 31, 2011, Best purchased shares of MDS Nordion, S.A, "Nordion," which did business in Belgium in reliance upon the aforementioned representations of Defendant. It was the intention of Best Medical Belgium, S.A. to retain the 95 employees who worked at Nordion at the time of the sale.

22. At the time of the purchase, Nordion was planning to lay off nearly 60 employees because they were losing €6-7 million per year. Best Medical Belgium, S.A. however decided to retain all the employees and attempt to expand the business which included the purchase of cyclotrons.

23. On or about July 2011, Best Medical Belgium, S.A. was forced to discipline an employee who exported and shipped radioactive material without proper licenses placing Best Medical Belgium, S.A at serious risk of not only liability, but also endangering the health and

safety of the citizens of Belgium and putting Best's nuclear handling licensures and certifications with the government of Belgium at risk.

24. After the disciplinary process, Defendant Nadine Duquesne threatened a strike that would threaten the very existence of the fragile business resulting in a loss of the 95 jobs that Best Medical Belgium S.A. inherited from Nordion.

25. In October 2011, in light of the financial losses and escalating labor disputes, Best Medical Belgium, S.A. filed for PRJ requesting the Court's help in restructuring the company. The Court subsequently appointed Defendant Robert Baert as the Delegate Judge to preside over the matter.

26. Best Medical Belgium, S.A. presented several restructuring plans, all of which attempted to retain as many employees as possible and even fund severance payments for the employees that could not be retained. All of the plans presented by Best Medical Belgium, S.A. were reasonable and likely to result in the preservation of Best Medical Belgium as a viable, profitable business employing skilled laborers in well paying jobs.

27. Under the above referenced plans, Best Medical Belgium, S.A. would have been able to seek other investors or potential partners to expand the business globally and the Walloon Region withdrew its previous offer to provide a €2 million grant and a €4 million loan toward restructuring the business.

28. Defendant Duquesne however had purposely and wrongfully taken confidential financial information to Judge Baert and used that information to make inaccurate and untruthful allegations toward the Plaintiffs.

29. On October 17, 2011 Mr. Suthanthiran informed Defendant BTC-WIT of the current economic and labor union situation and requested the Defendant fulfill its promises of financial support.

30. Defendant BTC-WIT did not respond to the aforementioned correspondence until November 7, 2011 and only indicated that the information would be forwarded to Mr. Marcelle.

31. On November 9, 2011, Mr. Suthanthiran sent an email to the Defendant BTC-WIT reiterating that the promised assistance and support was still not forthcoming leaving the company in a perilous situation.

32. In December 2011, Mr. Suthanthiran sent yet another email to Defendant, again, reiterating the need for the support that was promised prior to the purchase of the shares of Nordion.

33. As of the filing of this Complaint, the Defendant has yet to fulfill its obligations and/or promises of financial support, incentives, and consulting services to the Plaintiff.

34. On or about December 20, 2011, Defendant Nadine Duquesne, a union representative, wrote an email to all Best Medical employees, including those in Springfield Virginia, which included misrepresentations of fact.

35. Specifically, the email informed all its recipients that “no credible financial or economic plan was presented; no dynamic commercial plan was launched.” The email went on to demand the reinstatement of employees who were let go before any dialogue relating to the restructuring would resume.

36. The statement was false in that several viable economic restructuring plans were presented to the union and to the Delegate Judge.

37. Defendant Duquesne provided untruthful and inaccurate information regarding the Plaintiffs to the Defendant Administrators and Delegate Judge with the intent of destroying the Plaintiffs' business.

38. Despite these problems Best Medical Belgium, S.A. continued to invest cash into the Belgian business and hire highly trained, qualified personnel. The company however lost about €6 million between April and December, 2011.

39. In January 2012, Defendant Baert or the Administrators refused to implement any of the several restructuring plans submitted by the Plaintiffs' because of the influence and interference of Defendant Duquesne. Instead, Judge Baert recommended the appointment of Defendant Administrators to replace the organs of Best Medical Belgium, S.A., including the day to day management of the operations. This decision took control of the company away from the Plaintiffs. Subsequent to their appointment however, the Administrators instituted no helpful or constructive action and losses mounted to €1 million per month. These losses were due primarily to the inaccurate and untruthful information disseminated by Defendant Duquesne, the inadequate management of the Defendant Administrators and the inability of Defendant Delegate Judge Baert to reasonably or effectively preside over the PRJ process.

40. Throughout January and February 2012, Best Medical Belgium, S.A. continued to present reasonable restructuring plans to the Administrators and Delegate Judge but they were all ignored. Meanwhile, the business was now losing about €1 million per month while under the control of the administrators, which was about three times what Best Medical Belgium, S.A was projecting.

41. To the best of Plaintiffs' information and belief, no other plans were presented to save the company.

42. Thus far, Best Medical Belgium, Inc. has supported the losses of Best Medical Belgium, S.A. in the total amount of nearly €8 million without fair consideration, let alone support for the plans presented.

43. Best Medical Belgium, S.A. continues to lose customers and money due to the mismanagement, untruthful criticisms to the media, bias, and prejudice towards Plaintiffs by Defendants.

44. Prior to the involvement of the Defendant Administrators and Delegate Judge Best Medical Belgium, S.A. lost about €500,000.00 per month over the first six months and presented a restructuring plan that would have saved jobs and expanded the business throughout the world. Since the involvement of the Administrators and Judge, the business has lost millions of euros, the company is being sold at auction and most, if not all, the jobs are essentially lost.

45. The Administrators and Delegate Judge have been biased against the majority shareholder of Best Medical Belgium, Inc. because of his Indian descent and have been unfairly biased toward the position of the unions thereby breaching their fiduciary duty to all the stakeholders to maintain a viable business as a result of reasonable and fair restructuring of the company.

46. In March 2012, the Belgian Court, upon the recommendation of the Defendant Delegate Judge and Defendant Administrators authorized the selling of the assets of Best Medical Belgium, S.A. and initial bids were accepted until April 18, 2012. The bids submitted were woefully low and included many conditions and requirements. As a result, the Delegate Judge and Administrators turned a likely viable and profitable business into an essentially worthless enterprise that will manufacture nothing and employ no one. The business is likely to

become bankrupt because of the Judge Delegate and Administrators refusal to consider and implement any of the Plaintiffs restructuring plans.

47. This amounted to an illegal taking under international law of the company assets of Best Medical Belgium, S.A.

COUNT I

FRAUD IN THE INDUCEMENT AS TO DEFENDANT KINGDOM OF BELGIUM AND BELGIAN TRADE COMMISSION – WALLONIA INVESTMENT AND TRADE OFFICE,

48. Plaintiff hereby incorporates all prior paragraphs.

49. At all times relevant to this Complaint Djazia Filoso, Ms. Dedre Harris, and Jean Pierre Marcelle were the actual agents of Defendant Belgian Trade Commission - Wallonia Investment and Trade Office.

50. That the Belgian Trade Commission - Wallonia Investment and Trade Office is liable for the wrongful acts of Djazia Filoso, Deidre Harris and Jean Pierre Marcelle committed while in the scope of their employment and/or agency and the Kingdom of Belgium is responsible for and liable for the BTC-WIT.

51. On January 12, 2011 and again on January 13, 2011, Ms. Filoso and Ms. Harris met with Shawn Weingast in Orlando, Florida at the Home Builders Trade Show to discuss business opportunities in Belgium. Mr. Weingast is the Vice President and General Counsel of Best Medical Belgium, Inc.

52. On January 13, 2011, Mr. Krishnan Suthanthiran, President of Best Medical Belgium, Inc. along with Shawn Weingast met with Ms. Filoso and Ms. Harris.

53. At these meetings, Ms. Filoso and Ms. Harris both represented to Mr. Weingast and/or Mr. Suthanthiran that the “Wallonia region of Belgium would provide consulting services, and financial support and incentives for Best to invest in Belgium.”

54. In addition, Ms. Filoso and Ms. Harris also provided Mr. Weingast with a booklet entitled “*INVEST IN WALLONIA-BELGIUM: How to optimize your presence in the heart of Europe.*”

55. This booklet included the written representation that “Investment premiums are awarded to companies that invest in Wallonia and create jobs.” In addition the booklet represented that “Wallonia offers a wide range of subsidies for R & D awarded to SME’s and large companies with a plant in the region.”

56. These verbal and written representations recited above were all false.

57. That Defendant knew, or should have known, that the aforementioned written and verbal representations were false.

58. The aforementioned verbal and written representations were material to the Plaintiff’s decisions to purchase the shares of Nordion, as well as, continued investment of several million euros into the Best Medical Belgium, S.A. business after the asset purchase.

59. Plaintiff reasonably relied upon the aforementioned written and verbal representations when it purchased shares of Nordion and when it continued to invest several million euro into the business until March 9, 2012.

60. Soon after the purchase of the Nordion shares, labor strife and expenses related to realigning the business resulted in significant cost to Best Medical Belgium, Inc.

61. As a result, the Plaintiff requested the Defendant to provide the support, consultations and incentives that were promised.

62. Defendant, however, refused to provide any such support.

63. But for the Defendant's representation of financial support, incentives, and consultations, the Plaintiff would have never purchased the shares of Nordion nor would Plaintiff have continued to invest €5 million into the company until March 9, 2012.

64. Defendant never intended to provide the financial support and incentives to the Plaintiff at the time the material and false representations were made.

65. Generally, sovereign foreign states and their instrumentalities have immunity from suit in United States' courts pursuant to the Foreign Sovereign Immunities Act, 28 U.S.C. 1602.

66. The Act however provides exceptions to immunity.

67. Defendant BTC-WIT does not enjoy immunity as an instrumentality of the sovereign state of because this action is based upon commercial activity carried on in the United States by the foreign state or its instrumentality.

68. Commercial activities are exempt from immunity pursuant to 28 U.S.C. §1605(a)(2).

69. The occurrence described above constitutes commercial activity in the United States, thereby, exempting Defendant from an immunity defense. *See Holden v. Canadian Consulate*, 92 F.3d 918 (9th Cir. 1996).

70. As a direct and proximate cause of the Defendants' misrepresentations of support and incentives, the Plaintiff suffered damages in the form of lost investment in the Best Belgium business in an amount that is more than \$75,000.00.

WHEREFORE, Plaintiff requests this Honorable Court to enter a judgment in an amount more than \$75,000.00 or in an amount the court deems to be fair and just in favor of the Plaintiff.

COUNT II

BREACH OF CONTRACT OR IMPLIED CONTRACT AS TO DEFENDANT KINGDOM OF BELGIUM AND BELGIAN TRADE COMMISSION–WALLONIA INVESTMENT AND TRADE OFFICE,

71. Plaintiff hereby reincorporates all prior paragraphs.

72. The parties agreed to a contract, or implied contract, that Plaintiff would invest in purchasing the shares of Nordion and continue to fund the new company in exchange for consultations, financial support and incentives provided by the Walloon Region of Belgium.

73. Plaintiff did purchase the shares of Nordion on March 31, 2011 and continued to heavily invest in the company until March 9, 2012.

74. The Defendant breached the aforementioned contract when they refused to provide the economic support, incentives, and consultations.

75. As a direct and proximate cause of the Defendants' misrepresentations of support and incentives, the Plaintiff suffered damages in the form of lost investment in the Best Belgium business in an amount that is more than \$30,000,000.00.

WHEREFORE, Plaintiff requests this Honorable Court to enter a judgment in an amount more than \$30,000,000.00 or in an amount the court deems to be fair and just in favor of the Plaintiffs.

COUNT III

PROMISSORY ESTOPPEL AS TO DEFENDANT KINGDOM OF BELGIUM AND BELGIAN TRADE COMMISSION–WALLONIA INVESTMENT AND TRADE OFFICE,

76. Plaintiffs hereby incorporate all prior paragraphs.

77. Defendant promised that it would provide economic support and subsidies to Plaintiff relative to the Plaintiff's purchase the shares of Nordion in Belgium.

78. The Plaintiff relied on these promises to its detriment by purchasing the shares of Nordion.

79. That as a result of Plaintiff's detrimental reliance upon the Defendant's promises of support the Plaintiff suffered damages in excess of \$30,000,000.00

WHEREFORE, Plaintiffs request this Honorable Court to enter judgment in favor of the Plaintiffs in an amount in excess of \$30,000,000.00 that is equitable and just and to award Plaintiffs reasonable attorney fees and costs related to this action.

COUNT IV

PLAINTIFFS BEST MEDICAL BELGIUM, INC. AND BEST MEDICAL BELGIUM, S.A.'S CLAIM OF ILLEGAL TAKING OF PROPERTY IN VIOLATION OF INTERNATIONAL LAW PURSUNAT TO 28 U.S.C. 1605(a)(3) as to DEFENDANT KINGDOM OF BELGIUM

80. Plaintiffs hereby incorporate by reference all prior paragraphs.

81. The aforementioned usurpation of Best Medical Belgium, S.A., a company owned and operated by Best Medical Belgium, Inc., a Virginia corporation, by the Kingdom of Belgium through the Delegate Judge and Administrators appointed by the Commercial Court amounted to an illegal taking of the property as it is defined by 28 U.S.C. §1605(a)(3).

82. Defendant does not enjoy immunity pursuant to the Foreign Sovereign Immunity Act, 28 U.S.C. §1602 *et. seq.* because this action involves rights in property taken in violation of international law and said property was operated by an agency or instrumentality of the foreign

state of Belgium and that agency is involved in a commercial activity in the United States, 28 U.S.C. §1605(a)(3).

83. A taking of property is valid under international law only if (1) the taking serves a public purpose; (2) aliens must not be discriminated against or singled out for regulation by the state and (3) there is payment or just compensation. *See Siderman de Blake v. The Republic of Argentina*, 965 F.2d 699 (9th Cir. 1992).

84. Here, the taking of the Plaintiffs' business was not for a public purpose. In fact, the entire process was antithetical to any public purpose or good. The Plaintiffs presented several restructuring plans which received no reasonable review or consideration. Allowing the company to be sold at auction resulting in the loss of all jobs at the facility as well as the entire loss of the Plaintiffs' assets resulted in no service or benefit to the public. Belgium's Continuity of Corporations Act, enacted in 2009 was established for the very purpose of saving companies such as Plaintiffs and saving the local jobs for employees who worked for companies such as Plaintiffs.

85. The sole shareholder of the Plaintiff, Best Medical Belgium, Inc. (Krishnan Suthanthiran) who owns Best Medical Belgium, S.A. is of Indian descent. Throughout the PRJ process the Defendant Administrators referred to Mr. Suthanthiran as "that Indian businessman." There is no other reason to refer to Mr. Suthanthiran as an "Indian businessman" except to demean or discriminate against him and the company he operates.

86. Best Medical Belgium, Inc. never received any compensation when Best Medical Belgium, S.A. was taken over by the Defendant Administrators or when the company was put up for bid in March 2012.

87. The Defendants violated international law when they took the property of Best Medical Belgium, Inc., under the auspices of the PRJ Judge Delegate appointed by the Commercial Court of Charleroi. This taking occurred when the Delegate Judge recommended that administrators be placed in charge of the daily operation of the business and yet again when the Delegate Judge recommended to the Court that the company be sold at auction.

88. That this unlawful taking of property without just compensation violates international law as defined by *Siderman de Blake, supra*.

89. Once the Defendant Judge Delegate Baert recommended the appointment of the Defendant Administrators to manage and operate Best Medical Belgium, S.A. and later recommended to the Court that the company be liquidated and sold at auction pursuant to the PRJ, this amounted to an unlawful taking of the company.

90. The Defendants, as instrumentalities, or agents of Belgium were engaged in a commercial activity in the United States as a result of their contacts, negotiations, conversations, and arranging for the removal of nuclear waste with Best Medical Belgium, Inc., a Virginia corporation with their principal place of business in Springfield, Virginia.

91. The Kingdom of Belgium is responsible for the acts of its instrumentalities including ONDRAF which is responsible for the removal and disposal of radioactive material.

92. ONDRAF attempted to pressure Best Medical Belgium, S.A. into signing a contract with them that would pay ONDRAF for disposal of nuclear waste material.

93. The manner in which ONDRAF exerted this pressure was to influence the Ministry of Climate and Energy, specifically its Minister, Paul Magnette to cancel Best Medical Belgium, S.A.'s waste agreement with the IRE (National Institute for Radioelements) and the

Walloon Region to handle, store, characterize, process, and send the waste to ONDRAF and financial obligations of each party.

94. The cancellation of this contract amounted to a taking of property in violation of international law because the taking was not for a public purpose; Plaintiff, an alien in Belgium, was discriminated against and there was no just compensation for the unilateral cancellation of the contract.

95. In fact, the cancellation of the contract was antithetical to the public good because it resulted in no entity having the proper credentials to dispose of the radioactive material. As a result, the safety and general welfare of the public is at serious risk because of ONDRAF's wrongful acts of improperly influencing the Minister of Climate and Energy for its own financial gain.

96. Best Medical Belgium, S.A. is owned by Best Medical Belgium, Inc. which is a Virginia corporation organized in the U.S.A. Also, the majority shareholder of Best Medical Belgium, Inc., Krishnan Suthanthiran, is of Indian descent. The hostility of all the stakeholders, including, but not necessarily limited to, the employees of Best Medical Belgium, S.A., the appointed Administrators, the Delegate Judge, the Walloon Region, SOGEPa, ONDRAF and the unions are indicative of a pervasive practice of discrimination against Best Medical Belgium, Inc. and its' President.

97. As a direct and proximate cause of the Defendants' unlawful taking the Plaintiff suffered damages and is entitled to judgment against the Defendant for compensatory damages in an amount to be determined by the court.

WHEREFORE, Plaintiff requests this Honorable Court to enter judgment in favor of the Plaintiffs in an amount in excess of \$30,000,000.00 that is equitable and just and to award Plaintiffs reasonable attorney fees and costs related to this action.

COUNT V

PLAINTIFF BEST MEDICAL BELGIUM, S.A. CLAIM OF CONSPIRACY AS TO DEFENDANTS' KINGDOM OF BELGIUM, ROBERT BAERT; THIERRY BOSLY AND PIERRE-E. CORNIL

98. Plaintiffs hereby incorporate by reference all prior paragraphs.

99. The Alien Tort Statute, 28 U.S.C. §1350, states as follows, “The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.”

100. Plaintiff, Best Medical Belgium, S.A. is a Belgian corporation and is therefore an ‘alien’ as contemplated by the Act.

101. That the act of Defendants, Robert Baert, Thierry Bosly, and Pierre-E. Cornil, as described above amounted to an illegal taking of the property of Best Medical Belgium, S.A. without just compensation in violation of international law. *See, Siderman de Blake, supra.*

102. That the Kingdom of Belgium is liable and responsible for the wrongful acts of Defendants Baert, Bosly and Cornil.

103. That the Defendants, each and all of them conspired with one another to unlawfully take the property of Best Medical Belgium S.A. so as to control it and eventually sell it at auction with the intent of harming the Plaintiff in violation of §1382 of the Belgium Civil Code.

104. As a direct and proximate cause of the Defendant unlawful taking the Plaintiffs suffered damages and is entitled to judgment against the Defendant for compensatory damages in an amount to be determined by the court.

WHEREFORE, Plaintiff requests this Honorable Court to enter judgment in favor of the Plaintiff in an amount in excess of \$30,000,000.00 that is equitable and just and to award Plaintiffs reasonable attorney fees and costs related to this action.

COUNT VI

PLAINTIFF BEST MEDICAL BELGIUM, S.A. CLAIM FOR BREACH OF DUTY OF LOYALTY AND CONFIDENTIALITY AS TO DEFENDANT NADINE DUQUESNE

105. Plaintiffs hereby incorporate by reference all prior paragraphs.

106. The Alien Tort Statute 28 U.S.C. §1350 states as follows, “The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.

107. Plaintiff, Best Medical Belgium, S.A. is a Belgian corporation and is therefore an ‘alien’ as contemplated by the Act.

108. That on or about the first half of December, 2011 the Defendant removed confidential financial documents from the office of Plaintiff, Best Medical Belgium, S.A.

109. The Defendant then took these documents to the Delegate Judge Baert who asked if the documents were legally in Defendant Duquesne’s possession.

110. Defendant admitted she did not have permission from Plaintiffs to have the documents. Despite this, Defendant Duquesne and Defendant Bart continued to discuss the content and nature of the documents placing Plaintiffs in a false light.

111. In March 2012, Valerie Potier of the Walloon Region's SOGEPA (Société wallonne de gestion et de participations des entreprises) admitted to Best Medical Belgium, Inc.'s attorneys that the business plan(s) submitted by Best Medical Belgium, Inc. and Best Medical Belgium, S.A. were the best options available for restructuring Best Medical Belgium, S.A. into a viable, competitive and successful company.

112. The business plans submitted by Best Medical Belgium, however, included recommended levels of financial support from the Walloon Region.

113. The Walloon Region, however, refused to make any financial support available to Best Medical Belgium, S.A. despite its admission that their participation provided the most likely means to a successful restructuring.

114. The Walloon Region's refusal to invest in one of the restructuring plans put forth by the Plaintiff, Best Medical Belgium, S.A. was significantly influenced by the Defendant Nadine Duquesne's wrongful acts.

115. The aforementioned wrongful acts specifically included:

1. In August 2011 and again in December 2011, Ms. Duquesne called for strikes and general work stoppages to disrupt the business operations when Best Medical Belgium was most vulnerable to losing jobs, customers and funding.
2. At the time Plaintiff, Best Medical Belgium, S.A. attempted to discipline a worker for serious safety violations, such as delivering radioactive materials to customers without proper licenses, Defendant Duquesne called for work stoppages and strikes indifferent to the serious public health and safety issues at stake.
3. Encouraging two employees from shipping and two other employees from customer services to fabricate a need for sick leave in order to create labor shortages and work stoppages at Best Medical Belgium, S.A.
4. Using the fabricated sick leaves as leverage to have the manager in charge of customer service, Dominique Jadoul, removed. Defendant Duquesne

told the Administrators that she could end the sick leaves if Ms. Jadoul was removed from her managerial post.

5. Showed contempt for the managements of Plaintiffs Best Medical Belgium, S.A. and Best Medical International, Inc. while they were working feverishly to save the company and the remaining jobs.
6. Desired, and affirmatively sought, the failure of Best Medical Belgium, S.A.

116. As a direct and proximate result of Defendant Duquesne's wrongful conduct the employees of Best Medical Belgium, S.A., the Administrators, the Delegate Judge, the Walloon Region and the general public through the media all had distorted and negative perceptions of the Plaintiffs' motives and plans to restructure and build Best Medical Belgium, S.A. into a viable, thriving business in Belgium.

117. As a further result of the distorted and negative impressions fostered by Defendant Duquesne all the stakeholders, including the employees, Administrators, Delegate Judge, Walloon Region, SOGEPa, the Belgian nuclear regulatory agencies as well as the general public had a hostility against the Plaintiffs and essentially wanted them to fail in their attempts to rejuvenate Best Medical Belgium, S.A.

118. As a direct and proximate result of Defendant Duquesne obtaining and publishing the confidential financial documents to Judge Baert, the Plaintiffs suffered damages to its reputation as well as its ability to negotiate a reasonable restructuring plan.

WHEREFORE, Plaintiff requests this Honorable Court to enter judgment in favor of the Plaintiffs in an amount in excess of \$30,000,000.00 that is equitable and just and to award Plaintiffs reasonable attorney fees and costs related to this action.

COUNT VII

PLAINTIFF BEST MEDICAL BELGIUM, S.A.'s CLAIM OF DISCRIMINATION AS TO ALL DEFENDANTS

119. Plaintiffs hereby incorporates all prior paragraphs.

120. Plaintiff is an “alien” as defined by the Alien Tort Statute, 28 U.S.C. §1350 and therefore has standing and jurisdiction in this court to state this claim.

121. Belgian law pursuant to Art. 107-119 forbids discrimination in commercial settings.

122. As a matter of public policy the European Union and the Kingdom of Belgium forbids discrimination based on ‘genetic origin.’

123. Each of the Defendants worked in concert as described above in an attempt to prevent Best Medical Belgium, S.A. from restructuring the company so it would be viable and productive.

124. Specifically Defendants Baert, Bosly, and Cornil, as agents for the Kingdom of Belgium, refused to consider the several reasonable restructuring plans that would improve the company’s position while at the same time maintain a high level of employment for the workers.

125. Meanwhile, Defendant Nadine Duquesne, affirmatively attempted to sabotage the success of the company by taking confidential financial information and discussing them with the Delegate Judge, Defendant Baert, calling a general strike when an employee illegally shipped radioactive material to customers without proper licenses.

126. The President and majority shareholder of Best Medical Belgium, S.A is of Indian descent.

127. The only possible explanation for the aforementioned conduct of the Defendants is to discriminate against Plaintiff because of his Asian/Indian ownership.

128. As a direct and proximate result of Defendants' discriminatory conduct the Plaintiffs suffered damages relative to its inability to restructure the company as well as damage to its' goodwill and reputation.

WHEREFORE, Plaintiffs requests this Honorable Court to enter judgment in favor of the Plaintiffs in an amount in excess of \$30,000,000.00 that is equitable and just and to award Plaintiffs reasonable attorney fees and costs related to this action. This amount represents the loss of the value of the business had the Plaintiffs had the opportunity to implement their restructuring plans.

Respectfully submitted,

Dated: _____

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

**BEST MEDICAL BELGIUM, INC.
a Virginia Corporation, and
BEST MEDICAL BELGIUM, S.A., a
foreign corporation,**

Plaintiff,

v.

**THE KINGDOM OF BELGIUM;
BELGIAN TRADE COMMISSION –
WALLONIA INVESTMENT AND TRADE
OFFICE; ROBERT BAERT; THIERRY
BOSLY; PIERRE-E. CORNIL, and
NADINE DUQUESNE**

Defendants.

JOINTLY AND SEVERALLY

Case No.:

Hon.

JURY DEMAND

Plaintiffs hereby demand a trial by jury.

Respectfully submitted,

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