

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

R.M.C. ORTHOPEDIC & SURGICAL,
INC.,

Plaintiff,

v.

STRYKER CORPORATION, WRIGHT
MEDICAL TECHNOLOGY INC.,
WRIGHT MEDICAL GROUP, INC.,

Defendants.

Civil No.: 24-1579

BREACH OF CONTRACT;
VIOLATION OF PR LAW 75;
INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

VERIFIED COMPLAINT

TO THE HONORABLE COURT:

APPEARS NOW the Plaintiff, through the undersigned counsel, and hereby **STATES, ALLEGES, and REQUESTS** as follows:

JURISDICTIONAL BASIS

1. This case is based upon diversity jurisdiction under 28 U.S.C. §1332.
2. Plaintiff, R.M.C. Orthopedic & Surgical, Inc., is incorporated and registered under the laws of Puerto Rico, with principal place of business in Puerto Rico.
3. All Defendants are individuals, corporations, business entities, or partnerships who are citizens of Michigan, Tennessee or of a state other than Puerto Rico.

4. The matter in controversy exceeds the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest and costs, thus vesting jurisdiction on this Honorable Court pursuant to 28 U.S.C. § 1332.
5. Venue is proper in the District of Puerto Rico pursuant to 28 U.S.C. §1391, since the events, breaches of law, contract, and acts or omissions giving rise to this claim occurred in this district.

THE PARTIES

6. Plaintiff, **R.M.C. ORTHOPEDIC & SURGICAL, INC.** (hereinafter “plaintiff” or “**RMC**”) is a for-profit corporation, in good standing, organized and registered under the laws of Puerto Rico, with registry number 76552, since 1990.
7. Defendant **STRYKER CORPORATION** (hereinafter “**STRYKER**”) with its worldwide headquarters at 1941, Stryker Way, Portage, MI, 49002, USA; and its Latin America headquarters at 2555 Davie Road, Davie Florida, 33317, USA, and any of the companies that it owns and controls such as its subsidiaries, divisions, and affiliates.
8. Defendant **WRIGHT MEDICAL TECHNOLOGY INC.** (hereinafter “**WMT**”) is a corporation duly organized and registered under the laws of the State of Delaware, with its principal place of business in Tennessee.
9. Defendant **WRIGHT MEDICAL GROUP, Inc.** (hereinafter “**WMG**”) is a corporation duly organized and registered under the laws of the State of Delaware, with its principal place of business in Tennessee.
10. **WMT and WMG** (hereafter collectively referred to as “Wright”) are both wholly

owned subsidiaries of STRYKER.

11. Defendants **Does I-X** are individuals or entities to whom generic names have been assigned because their identity remains unknown and who could be responsible to Plaintiff for the damages suffered by it and are domiciled in or incorporated in states other than Puerto Rico.

GENERAL ALLEGATIONS

12. Since 1991, **RMC** has been associated with the introduction and distribution of Wright Medical products and materials in Puerto Rico and the USVI.
13. **RMC** spearheaded the introduction of orthopedic implants and hardware, for the past 32 year in Puerto Rico and the USVI.
14. **RMC** initially negotiated and obtained the exclusive distribution rights in the territory of Puerto Rico from Dow Corning Wright (DCW), a subsidiary of Dow Corning Corporation of Midland, MI, back in 1991.
15. Since the beginning of the relationship, the model that was established between the parties was that of an exclusive stocking distributor, which meant **RMC** would take title of every good purchased, instrumentation for implantation of the medical devices and implants.
16. This also meant that **RMC** would purchase the products and maintain sufficient inventory in the territory, so hospitals, clinics, surgical centers and the orthopedic community in the island, at large, could be timely delivered with the needed products and equipment to serve the patients in the island.
17. The model of exclusive stocking distribution remained the same throughout the

entire time of the relationship.

18. In 1993, Dow Corning Corporation sold/divested to an investment group led by Mr. Herb W. Korthoff in 1993. That new organization became Wright Medical Technology, Inc. (hereafter WMT)
19. **RMC** retained exclusive distribution rights for 100% of all products allowed in the transaction agreement and still manufactured by WMT in Arlington, TN.
20. During the years to follow, **RMC** introduced to the Puerto Rico market a series of innovative biologics, extremities, and unique bone substitutes products from WMT such as the OsteoSet® Bone Void Filler.
21. In September 1999, WMT was acquired by Warburg Pincus Equity Partners. The new private entity was named Wright Medical Group (hereafter WMG).
22. **RMC** uninterruptedly continued its exclusive distribution operation in the territory with the new entity.
23. In the year 2000, 2001 and beyond, WMG continued its growth path introducing an expanded biologics bone substitute based on demineralized bone matrix technology product line trademarked as ALLOMATRIX™ with a variety of diverse product families, i.e. ALLOMATRIX C Bone Putty, ALLOMATRIX™ Injectable. Additionally, product families such as PRODENSE®, MIIG®, etc.
24. In addition, other extremities products were introduced, i.e. market champions such as the Evolve® Radial Head Implant, EVOLVE™ Plate System, etc.
25. **RMC** took on the risk, the financial burden, and the challenge of introducing and distributing all these products into the Puerto Rico territory. **RMC** continued its

distributorship as a 100% stocking distributor and introduced to the Puerto Rico territory all these new lines and products and created a market for Wright.

26. Throughout this period and afterwards, **RMC** uninterruptedly continued its distributorship for WMG as a 100% exclusive stocking distributor, purchasing inventory, receiving products delivered by WMG, and serving the territory of Puerto Rico by investing money, time and effort, human resources and promoting other activities to build up the brand and have a sustained firm growth.
27. In October 2014 WMG acquired TORNIER, a leading company in the Upper Extremities (Shoulder and Arm) reconstructive arthroplasty business.
28. Throughout all these mergers and acquisitions, **RMC** remained a constant and loyal partner to Wright's organization and its new legal entities, as an exclusive stocking distributor in the Puerto Rico territory, with the unwavering support of the management responsible for the sales and distribution channels of the company.
29. Business between **RMC** and Wright was conducted as usual over the years, almost two decades.
30. **RMC** continued successfully promoting, purchasing, warehousing, selling, distributing, and servicing the market segments of hardware implants for Upper Extremities (shoulder, elbow, wrist and hand), Lower Extremities (Foot & Ankle), and Biologics for the Wright and Tornier line of products.
31. As such, for over the past 32 years, **RMC** has been the exclusive distributor of Wright's products and technologies, including medical devices for Puerto Rico.

32. At the request of Wright, the parties formalized their long-standing exclusive distribution relationship in a written contract on July 24, 2015.
33. From 2015-2019 **RMC**'s sales of Wright/Tonier equipment were excellent, leading to substantial profits.
34. On November 11, 2020, Stryker Corporation (hereafter "Stryker") announced that it had acquired Wright Medical Group N.V.
35. After the acquisition of Wright by Stryker, **RMC** continued marketing, promoting, training surgeons, purchasing, and distributing Wright/Tornier products from Stryker in Puerto Rico, and Stryker continued to supply as usual the orders placed by **RMC**.
36. **RMC**, as it had for many years, continued to order, pay consistently and on-time, sell and distribute the Wright and Tornier line of products in Puerto Rico, supplying orthopedic surgeons and their patients with shoulder, knee, ankle replacements as well as the instruments and hardware related to such sophisticated medical devices and technologies.
37. **RMC** continued to successfully promote, purchase, sell, distribute and service these product lines in Puerto Rico, now under the Stryker (effectively co-branding in its labels) brand and ownership, for the Puerto Rico market.
38. In 2020, despite serious pandemic issues and the suspension of elective surgeries by Executive Order issued by the Governor of Puerto Rico, **RMC** pushed forward, and the sales of Wright/Tonier equipment were robust.
39. In 2021 **RMC**'s efforts resulted in sales of Wright/Tonier equipment that

significantly exceeded prior years, and the future looked bright as the path had been laid for major transformational sales and market in roads specifically in the shoulder reconstructive surgery market segment

40. On August 29, 2021, **RMC** was informed by Stryker's management that Puerto Rico market would be managed from Stryker's Bogota, Colombia office.
41. Despite the sudden and unexpected change, various conversations between **RMC** and Stryker Colombia management were held, which included discussions as to future plans and growth opportunities for **RMC** and Stryker products in Puerto Rico. **RMC** at all times expressed interest in continuing to distribute Stryker's Wright products.
42. On January 26, 2022, however, Stryker notified **RMC** the unilateral termination of the distribution agreement with an effective date of April 27, 2022.
43. The termination letter of **RMC**'s distribution agreement, printed on Wright's letterhead, stated it was effective ninety (90) days thereafter, without stating any reason or just cause for the unilateral termination after a mutually beneficial many decades long and fruitful relationship.
44. Moreover, the termination notice did not comply with section 14 of the Distributor Agreement signed on July 24, 2015, which provides the terms and conditions under which the Distributor Agreement could be terminated by either party. None of the terms and conditions were met, and none were set forth in the January 26, 2022, termination notice, nor in the September 29, 2023 letter.
45. In connection with such notice of termination, **RMC** and Stryker engaged in

discussions, prompted by Stryker's Latin American Management, as to details and terms of such termination, including lump sum payment to **RMC** to properly transition the developed market by **RMC** in Puerto Rico if a mutual agreement would be reached between the parties. It was emphasized that **RMC** would support STRYKER with such a transition if an acceptable extra judicial agreement could be reached and, as part of said discussions, **RMC** emphasized its commitment and involvement (i.e. joint development sales calls, meetings and presentations, etc.) to see the market flourishing and growing under Stryker (going direct to the market) to assure and secure the momentum for the benefit of our mutual customers, the orthopedic surgeons and their patients.

46. During that period and afterwards, **RMC** continued placing orders from Wright/Tornier-Stryker products and Stryker filled and shipped these orders to **RMC**.
47. In 2022 **RMC**'s sales of Wright/Tonier equipment set new records for Puerto Rico market. **RMC** attained these results despite the "unsmooth" nature of the supply and an imminent breakdown in communications starting with actions such as i.e. Stryker Headquarters in Colombia not answering rapidly and on time as **RMC** had been accustomed to when operating directly with USA based points of contacts and commercial support departments.
48. Despite the good faith negotiations efforts by **RMC**, no decision resulted from Stryker and the negotiations abruptly came to an end in April 2022.
49. Notwithstanding the above, **RMC**'s exclusive distributorship for Wright/Tornier-Stryker products kept moving forward as usual, with Stryker delivering the

products up until they halted supplying and processing orders after May 2023.

50. Since then, **RMC** had placed 15 orders amounting to \$581,185.75 in products, which Wright/Stryker abruptly refused to supply without any reasonable justification.
51. On July 12, 2023, an extrajudicial demand letter was sent by **RMC**'s counsel to Stryker denouncing Wright/Stryker's actions, and how these amounted to a constructive termination of **RMC**'s exclusive distribution agreement of Wright's products for Puerto Rico, and how Wright/Stryker's continued refusal to abide by its obligations under the distributorship relationship was causing **RMC** irreparable harm and damages.
52. On August 18, 2023, another extrajudicial letter was sent by **RMC**'s counsel directly to Stryker's President of the Trauma and Extremities Division, Mr. Tim Lanier, wherein he followed up with his previous communication and many others sent by **RMC** directly to Stryker's management, in order to address these issues related to the distributorship relationship between **RMC** and Wright/Tornier now owned by Stryker.
53. Stryker was informed that the lack of action by Stryker's management to respond and adequately address **RMC**'s communications was causing not only distress towards its long-standing business partner, but also to the community of orthopedic surgeons in Puerto Rico who were not being able to provide their patients with Wright Medical/Tornier products for new primary cases and, at times required and clinically necessary for revision surgery cases, utilizing technologies manufactured and exclusively only available by

WRIGHT/TORNIER/STYKER for the benefit of the local Puerto Rico patient population.

54. Multiple communications from physicians in Puerto Rico to **RMC**'s president, Mr. Nelson A. Rodriguez, were enclosed, expressing their indignation, frustration and concerns with the lack of product supply to Puerto Rico's patients by Stryker/Wright that had been abruptly halted.
55. These actions taken by STRYKER amounted to plain discrimination towards the American market of Puerto Rico and its patients, as nothing that had transpired as a consequence of STRYKER acquiring WRIGHT/TORNIER had significantly and adversely affected the markets in the continental USA, its patients and the services provided by the orthopedic surgeons' community, as it significantly and adversely affected the Puerto Rican orthopedic patients' community on the island.
56. Notwithstanding, on September 29, 2023, Defendant Wright/Stryker sent another letter to **RMC**, again printed on Wright's letterhead, and signed by Wright's Division Counsel for the Trauma & Extremities Division, Mr. Clay Bethell, reiterating the termination of the Distribution Agreement with **RMC**, again without stating any reason or just cause for such termination.
57. Therein, Stryker/Wright recognized that following the first termination letter sent in January 2022, the parties engaged in discussions to settle any obligations arising from the termination, without reaching a settlement, as discussions on the subject came to an abrupt end.
58. In the September 29, 2023 letter, Stryker/Wright also acknowledged that

following the initial termination notice, Stryker/Wright continued to deliver products to **RMC**, however, that this was done apparently by accident and that there was no real intent on behalf of Wright to continue the commercial relationship with **RMC**: hence, the distributorship agreement.

59. Since 1992-93, **RMC** through its officers, owners and employees, promoted, purchased, warehoused, sold and distributed Wright/Tonier/STRYKER products in Puerto Rico.
60. Plaintiff **RMC**, through its salesforce for decades, promoted, serviced, supported, purchased and distributed defendants' product lines in Puerto Rico.
61. For over 32 years, Plaintiff **RMC** created and expanded the Puerto Rico market for now STRYKER owned brands of implant equipment, instruments and hardware in Puerto Rico.
62. For the past ten years, **RMC**'s sales of Wright/Tonier equipment, in spite of catastrophic hurricanes, earthquakes, floods and epidemics, exceeded by many million dollars.
63. Plaintiff **RMC** during the last ten years has aggressively marketed, sold, distributed, supported absolute compliance at all times and especially supportive as an organization during the Wright's DOJ CIA, and maintained good stewardship and remained an affirming and outstanding business partner servicing defendants' equipment in the Puerto Rico market. This unlawful termination has caused **RMC** great damage in loss of sales and goodwill, as well as unusable inventory of defendant's equipment.

FIRST CAUSE OF ACTION
FOR BREACH OF LAW 75 DISTRIBUTION CONTRACT

64. All the allegations set forth in the prior sections are incorporated as if fully set forth herein.
65. Since 1990, Plaintiff has been distributing implants and related equipment hardware and instruments for upper and lower extremities in Puerto Rico.
66. **RMC** actively promoted defendants' particular product lines, entered into contracts with buyers, purchased and kept its own inventory and had discretion to establish its own prices, invoiced and delivered the products and provided support for its users.
67. For more than 32 years, **RMC** has been the sole distributor of Wright implants and related equipment for upper extremities, lower extremities and biologics in Puerto Rico.
68. **RMC** through its efforts created and developed the market in Puerto Rico where it has promoted, advertised, sold, received, warehoused, distributed and serviced defendants' product line to its customers.
69. Through **RMC's** efforts, annual sales for defendants' lines were robust, increasing year after year and were close to reaching a million dollars at termination. That was so despite the changes and many challenges characteristic of the local medical device industry, due to prevalent market conditions and unique characteristic of the local Puerto Rico market actual performance.
70. **RMC** is a distributor under Law 75, the Dealers Contracts Act, Act No. 75 of June 24, 1964, P.R. LAWS ANN., Title 10, Sections 278-278dd.

71. **RMC** has complied with all its essential contractual obligations in supplying the market of Puerto Rico with defendants' product lines, previously described.
72. Despite sales continuing very strong, without warning, proper notice or just cause, Defendants terminated **RMC** as its distributor and have refused to sell to it the line of products previously described.
73. **RMC** repeatedly and insistently tried to ascertain the reason for refusing to sell to **RMC** and thus the termination, but defendants have only referred to the 90-day notice in the termination letter dated January 26, 2022.
74. Defendants failed to communicate a valid reason or just cause for refusing to continue to supply and sell its entire product line to **RMC**, in direct contravention to Law 75.
75. Moreover, the termination notice did not comply with section 14 of the Distributor Agreement signed on July 24, 2015, and thus breached it.
76. The aforementioned damages under Law 75 for the value of the business, are as follows:
 - a. Following generally accepted accounting principles, the **loss profits** for **RMC** **after expenses are calculated at** no less than TWO MILLION ONE HUNDRED THOUSAND DOLLARS **(\$2,100,000)**
 - b. Following generally accepted accounting principles, **RMC's** business' **good will** is calculated to be no less than ONE MILLION SIX HUNDRED THOUSAND DOLLARS **(\$1,600,000)**
 - c. Following generally accepted accounting principles, the loss for the

remaining inventory of defendant's equipment for an amount of no less than
ONE MILLION TWO HUNDRED THOUSAND DOLLARS
(\$1,200,000).

PRELIMINARY INJUNCTIVE RELIEF

77. Plaintiff requests the Court provide injunctive relief under Law 75's provisional remedy provision at 10 L.P.R.A. Sec. 278b-1, so that Defendants resume the supply to **RMC** with the product lines it has been representing for years, so that **RMC** in turn can profit, as well as supply the physicians and patients in Puerto Rico who desperately need this specialized equipment.
78. Again, revisions are critical, and **RMC** has reliable information that during such like transition from WRIGHT/TORNIER STRYKER distributors to WRIGHT/TORNIER STRYKER direct accounts, and during settlement/economic negotiations with mainland distributors, American citizens from the mainland United States were not deprived of the supply of WRIGHT/TORNIER STRYKER products and technologies.
79. American citizens in Puerto Rico have been and to this day continue to await to get much needed revision surgery with STRYKER products and technologies.
80. Orthopedic surgeons, out of desperation, have decided to utilize other competitive products making the surgery much longer, complicated and thus riskier.
81. The failure to supply defendants' orthopedic equipment, in addition to being an economic issue for **RMC**, is a public health issue affecting thousands of patients in Puerto Rico.

82. Although establishing irreparable harm is not a requirement under Law 75's injunctive relief provision, there is irreparable harm being caused to many patients in Puerto Rico as well as to plaintiff RMC.

TRIAL BY JURY DEMANDED

83. Plaintiff hereby demands trial by jury.

WHEREFORE, Plaintiff demands judgment against DEFENDANTS for no less than **FOUR MILLION NINE HUNDRED THOUSAND DOLLARS (\$4,900,000)** for **damages caused to RMC** plus expenses, costs, and attorneys' fees and interest.

VERIFICATION

I, Nelson A. Rodriguez, single, of legal age and resident of Guaynabo, Puerto Rico, declare and state under penalty of perjury that the foregoing is true and correct. I have reviewed this complaint and injunction relief requested and find that its facts are accurate to the best of my information and belief.

Executed in San Juan, Puerto Rico, on December 18, 2024.

s/Nelson A. Rodriguez
Nelson A. Rodriguez
President/CEO of R.M.C. Orthopedic & Surgical, Inc

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 18th day of December 2024.

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