

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

FORBA Holdings, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. _____
	)	
HERO MANAGEMENT, LLC	)	
and RONALD MONTANO,	)	
	)	
Defendants.	)	

COMPLAINT

Plaintiff, FORBA Holdings, LLC, submits this Complaint in this diversity action against the defendants, HERO MANAGEMENT, LLC and Ronald Montano, seeking damages and a permanent injunction for violations of Colorado’s Uniform Trade Secrets Act, Colo. Rev. Stat. Ann. § 7-74-101, *et. seq.*, and for the common-law tort of conversion.

The Parties

1. FORBA Holdings, LLC (“FORBA”) is a Delaware limited liability company with its principal place of business in Nashville, Tennessee.
2. Hero Management, LLC is a Colorado limited liability company with its principal place of business in Colorado Springs, Colorado.

3. Hero Management's registered agent for service of process is Ronald Montano. Ronald Montano is an individual who is a resident of Colorado. The address for service of process on the company is 710 Bear Paw Lane North, Colorado Springs, Colorado 80906.

#### Jurisdiction and Venue

4. This Court possesses subject-matter jurisdiction pursuant to 28 U.S.C. § 1332, due to the diversity of citizenship of the parties and the amount in controversy.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

#### Factual Allegations

6. FORBA is in the business of managing pediatric dental clinics in various States, including Colorado.

7. Hero Management is in the business of managing pediatric dental clinics in various States, including Colorado. Hero Management at times does business under the tradename Captain Smiles.

8. Ronald Montano is the principal owner and manager of Hero Management.

9. In the course of its business, FORBA has employed managers and salespeople who, in the course of their employment, have been given FORBA's confidential business information.

10. The confidential business information used by FORBA's employees includes, but is not limited to, FORBA's development matrix.

11. The confidential business information used by FORBA's employees includes, but is not limited to, FORBA's internal development rankings analyses and production reports.

12. The confidential business information used by FORBA's employees includes, but is not limited to, FORBA's customer lists.

13. The confidential business information used by FORBA's employees includes, but is not limited to, FORBA's personnel lists.

14. The confidential business information used by FORBA's employees includes, but is not limited to, FORBA's propriety research for Title XIX and Title XXI.

15. The confidential business information used by FORBA's employees includes, but is not limited to, FORBA's demographic analyses.

16. Two of FORBA's employees who possessed the confidential business information described in paragraphs 9 through 15 are Joseph Lee and Adam Ditto. Lee and Ditto had a duty to maintain the secrecy of FORBA's confidential business information during the course of, and after, their employment by FORBA under the terms of their employment by FORBA.

17. Lee and Ditto left FORBA's employment and have subsequently been employed by, or otherwise has performed work for, Hero Management.

18. Upon information and belief, in the course of their employment for Hero Management and/or Ronald Montano, Lee and Ditto have used the confidential business information described in paragraphs 9 through 15 for the benefit of Hero Management.

19. Upon information and belief, in the course of their employment for Hero Management and/or Ronald Montano, Lee and Ditto have used the personal property of FORBA, in their possession, for the benefit of Hero Management.

20. Upon information and belief, Ronald Montano knew that Lee and Ditto intended to use, and used, the confidential information described in paragraphs 9 through 15, as well as the personal property of FORBA, for Montano's company.

21. Lee and Ditto and Ronald Montano's use of FORBA's confidential information and personal property has worked to the detriment of FORBA by increasing FORBA's business costs and proximately causing FORBA to lose customers, personnel, and profits.

22. Upon information and belief, Ronald Montano has used FORBA's confidential information and personal property in the course of his business.

23. Ronald Montano knew at the time that he used FORBA's confidential business information in the course of his business that he possessed FORBA's confidential business information and personal property and that his use of that information would likely work to the detriment of FORBA.

24. Ronald Montano knew at the time that Lee and Ditto used FORBA's confidential business information and personal property for Montano's business that Lee and Ditto were engaging in such conduct and that Lee and Ditto's use of that information would likely work to the detriment of FORBA.

COUNT ONE  
VIOLATION OF COLORADO'S UNIFORM  
TRADE SECRETS ACT

25. The allegations contained in paragraphs 1 through 24 are restated herein.

26. The confidential business information described in paragraphs 9 through 15 above constitutes "trade secrets" for purposes of Colorado's Uniform Trade Secrets Act, Colo. Rev. Stat. Ann. § 7-74-102(4).

27. Defendants have knowingly misappropriated FORBA's trade secrets by knowingly using them in the course of their business.

28. Defendants' misappropriation of FORBA's trade secrets has worked to the detriment of FORBA, proximately increasing FORBA's business costs and proximately causing FORBA to lose customers, personnel, and profits.

29. Defendants' misappropriation of FORBA's trade secrets has proximately damaged FORBA in an amount that is no less than \$350,000, in a specific amount to be proven at trial.

30. Plaintiff is entitled to judgment against Defendants of no less than \$350,000, in an amount to be proven at trial, pursuant to Colo. Rev. Stat. Ann. § 7-74-104, for Defendants' misappropriation of Plaintiff's trade secrets.

31. Plaintiff is entitled to permanent injunctive relief against Defendants from further use of Plaintiff's trade secrets pursuant to Colo. Rev. Stat. Ann. § 7-74-103.

COUNT TWO  
CONVERSION

32. The allegations contained in paragraphs 1 through 24 are restated herein.

34. Joseph Lee and Adam Ditto unlawfully use FORBA's personal property in the course of their work for Defendants.

35. Lee and Ditto's possession and use of FORBA's personal property in the conduct of their work for Defendants' business is intentional and knowing.

34. Lee and Ditto's possession and use of FORBA's personal property in the conduct of their work for Defendants' business is inconsistent with FORBA's right of possession.

35. Defendants, through Lee and Ditto, use FORBA's personal property, to its detriment, in a manner that is inconsistent with FORBA's right of possession.

36. Defendants' use of FORBA's personal property has worked to the detriment of FORBA, proximately increasing FORBA's business costs and proximately causing FORBA to lose customers, personnel, and profits.

37. Defendants' use of FORBA's personal property constitutes conversion under the common law of Colorado.

38. Defendants are liable to FORBA for their conversion of FORBA's personal property of no less than \$350,000, in an amount to be proven at trial.

39. FORBA is entitled to an Order requiring Defendants to deliver all of FORBA's personal property in their possession, custody, or control, to FORBA and to cease using all information gained from that personal property in the course of their business.

Prayer

For Defendants' unlawful conduct, Plaintiff respectfully requests:

1. Damages of no less than \$350,000, in an amount to be proven at trial;
2. Permanent injunctive relief against further use of Plaintiff's trade secrets by Defendants;
3. An Order requiring return of Plaintiff's personal property;
4. Attorneys' fees and costs, pursuant to Colo. Rev. Stat. Ann. § 7-74-105; and
5. Such other relief as the Court deems lawful, equitable, and just.



Dated: April 4, 2007.

Respectfully submitted,

By: s/ William T. Slamkowski  
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