

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS  
KANSAS CITY, KANSAS**

MEDICAL SUPPLY CHAIN, INC.,	)
<i>Plaintiff,</i>	)
v.	) Case No. 05-2299-KHV
NOVATION, LLC	) Formerly W.D. MO. Case No. 05-0210
NEOFORMA, INC.	)
ROBERT J. ZOLLARS	)
VOLUNTEER HOSPITAL ASSOCIATION	)
CURT NONOMAQUE	)
UNIVERSITY HEALTHSYSTEM CONSORTIUM	)
ROBERT J. BAKER	)
US BANCORP, NA	)
US BANK	)
JERRY A. GRUNDHOFFER	)
ANDREW CESERE	)
THE PIPER JAFFRAY COMPANIES	)
ANDREW S. DUFF	)
SHUGHART THOMSON & KILROY	)
WATKINS BOULWARE, P.C.	)
<i>Defendants.</i>	)

**NOTICE OF DEFENDANTS’ AVERRED AGREEMENT TO MONOPOLIZE  
HOSPITAL SUPPLY CHAIN ELECTRONIC MARKETPLACE IN RELATED LITIGATION**

Comes now the plaintiff and makes notice of related litigation in another jurisdiction averring the defendants’ agreement to monopolize the electronic marketplace for hospital supplies filed subsequent to the defendants’ press release claiming monopolization of the national market for hospital supplies.

1. On October 11, 2005, the defendants announced their intent to have the unnamed coconspirator GHX, LLC (Cmplt ¶26) take over the named defendant Neoforma, Inc.

2. The announcement declared the defendants to have dominant market power in the national market for hospital supplies:

“GHX’s owners, strategic partners, and trading exchange participants are representative of the entire healthcare supply chain, including manufacturers and distributors, integrated delivery networks (IDNs), hospitals and ancillary healthcare facilities, group purchasing organizations and their proprietary healthcare trading exchanges, and supply chain technology companies.”

3. On November 7, 2005, the law firm of Milberg Weiss Bershad & Schulman LLP filed a shareholder lawsuit against this the present defendants Neoforma, Inc. VHA, UHC and Novation LLC captioned *Robert Carlson v. Neoforma, Inc. Robert J. Zollars, C. Thomas Smith, Richard D. Delppie, Michael J. Murry, Edward A. Blechschmidt, Wayne B. Lowell, Jeffrey H. Hillebrand, VHA, Inc.* In The Court Of Chancery For The State Of Delaware In And For New Castle County, Case No. 1766-N averring an agreement was

formed between the present defendants and coconspirators to exclude competing electronic marketplaces from 8000 health systems, the entire national market for hospital supplies.:

“Specifically, in 2000, Neofonna entered into a 10-year outsourcing agreement (the "Outsourcing Agreement") with VHA, UHC, Novation, and Healthcare Purchasing Partners International, LLC ("HPPI"). Under the Outsourcing Agreement, Neofonna agreed to build and provide specific functionality to Marketplace@Novation, Novation's e-commerce marketplace. Novation agreed to act as Neofonna's exclusive agent to negotiate agreements with suppliers to offer their equipment, products, supplies, and services through marketplaces sponsored by Novation or HPPI, including Marketplace@Novation. VHA, UHC, HPPI, and Novation each agreed not to develop or promote any other Internet-based exchange for the acquisition or disposal of products, supplies, equipment, or services by healthcare provider organizations.”

*Johnson v. Neofonna et al* Complaint at ¶21 on page 6. The complaint is posted at <http://www.medicalsupplychain.com/news.htm> under the link Milberg Weiss Class Action Against Neofonna

4. The defendants US Bancorp NA and Piper Jaffray were the lead underwriters capitalizing Omnicell, Inc. which made an exclusive contract with Novation, VHA, UHC and HPPI at the same time:

“Omnicell has signed a three-year agreement to provide automated supply and medication dispensing systems to Novation, the supply company of VHA Inc. and the University HealthSystem Consortium (UHC).

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The new agreement also extends to health care organizations that purchase supplies through HealthCare Purchasing Partners International, a company that markets Novation purchasing agreements to organizations outside of VHA and UHC.”

Omnicell corporation press release dated September 25, 2000.

Respectfully Submitted

S/Bret D. Landrith  
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#### **Certificate of Service**

I certify that on November 15<sup>th</sup>, 2005 I have served the foregoing with the clerk of the court by using the CM/ECF system which will send a notice of electronic filing to the following:

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