

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

A- 17- 753629- C
XXVIII

Case No. _____

(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

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| Plaintiff(s) (name/address/phone): <p style="text-align: center; font-weight: bold;">TIARA HOLDINGS II, LLC</p> | Defendant(s) (name/address/phone): <p style="text-align: center; font-weight: bold;">STEMEDICA CELL TECHNOLOGIES, INC. ROGER J. HOWE MAYNARD A. HOWE NIKOLAI I. TANKOVICH</p> |
| Attorney (name/address/phone): <p style="text-align: center;">James J. Pisanelli, Esq., #4027 PISANELLI BICE PLLC 400 South 7th Street, Suite 300, Las Vegas, NV 89101 702-214-2100</p> | Attorney (name/address/phone): |

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

| | | |
|---|--|--|
| <p style="text-align: center; font-weight: bold;">Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property | <p style="text-align: center; font-weight: bold;">Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p style="text-align: center; font-weight: bold;">Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice | <p style="text-align: center; font-weight: bold;">Torts</p> <p style="text-align: center; font-weight: bold;">Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort |
| <p style="text-align: center; font-weight: bold;">Probate</p> <p><i>Probate (select case type and estate value)</i></p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500 | <p style="text-align: center; font-weight: bold;">Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input checked="" type="checkbox"/> Other Contract | <p style="text-align: center; font-weight: bold;">Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal |
| <p style="text-align: center; font-weight: bold;">Civil Writ</p> <p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant | | <p style="text-align: center; font-weight: bold;">Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters |

Business Court filings should be filed using the Business Court civil coversheet.

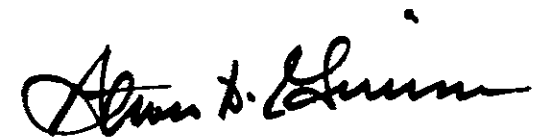
April 6, 2017

Date

/s/ James J. Pisanelli

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

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Attorneys for Plaintiff Tiara Holdings II, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

TIARA HOLDINGS II, LLC, a Nevada
Limited Liability Company,

Plaintiff,

v.

STEMEDICA CELL TECHNOLOGIES,
INC., a Nevada Corporation; ROGER J.
HOWE, an individual; MAYNARD A.
HOWE, an individual; NIKOLAI I.
TANKOVICH, an individual; DOE
INDIVIDUALS I-X, and ROE BUSINESS
ENTITIES I-X,

Defendants.

Case No.: A - 17 - 753629 - C

Dept. No.: XXVIII

COMPLAINT

**(Request for Business Court Assignment
Pursuant to EDCR 1.61(a)(2)(ii) and (iii))**

**(Exempt from Arbitration – Amount in
Controversy Exceeds \$50,000; Equitable
Relief Requested)**

Plaintiff Tiara Holdings II, LLC ("Tiara") hereby states as its Complaint against Defendants Stemedica Cell Technologies, Inc. ("Stemedica" and/or the "Company"), Roger J. Howe ("R. Howe"), Maynard A. Howe ("M. Howe"), and Nikolai I. Tankovich ("Tankovich") (collectively "Stemedica's Founders") as follows:

NATURE OF THE CASE

1. This is an action for investor fraud, breaches of fiduciary duty, and accounting. Tiara, an investor in Stemedica, was defrauded out of millions by Stemedica's Founders. As Tiara has recently learned, Stemedica's Founders have operated a nearly ten-year investment scheme wherein they have raised over \$110 million dollars from various individual investors for the purported purpose of funding and establishing a stem cell company known as Stemedica. Instead of investing funds into developing stem cells for commercialization as they claimed,

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

1 Stemedica's Founders, upon information and belief, have used these investor funds, in whole or in
2 part, to benefit themselves and their associates through excessive compensation and lavish
3 personal expenses and related party transactions.

4 2. Stemedica's Founders have concealed and perpetuated this fraud through the use of
5 purported operating subsidiaries, which permitted them to divert millions to benefit them without
6 raising questions or concerns from Stemedica's investors and shareholders. The full extent of
7 Stemedica's elaborate and sophisticated investment scheme and wrongdoings is not fully known
8 as Stemedica's Founders have kept Tiara and independent auditors in the dark over its financial
9 records and transactions. This action seeks to hold Stemedica's Founders accountable for their
10 actions and wrongs.

11 THE PARTIES

12 3. Tiara is a limited liability corporation organized under the laws of Nevada. Tiara
13 owns 358,334 Series B preferred shares and 71,666 shares of common stock of Stemedica.
14 Dr. Anthony M. Marlon ("Dr. Marlon") a prominent physician and business leader in Las Vegas,
15 holds his shares in Stemedica through Tiara. Marlon is a member of the Board of Directors of
16 Stemedica.

17 4. Defendant Stemedica is a corporation organized under the laws of Nevada, with
18 headquarters in San Diego, California. Stemedica's Founders claim the Company engages in the
19 development and manufacture of stem cells for use in clinic trials both nationally and
20 internationally.

21 5. Defendant Roger Howe is the Chairman and Chief Executive Officer of
22 Stemedica.

23 6. Defendant Maynard Howe is the Vice Chairman and Chief Executive Officer of
24 Stemedica.

25 7. Defendant Tankovich is the President/Chief Medical Officer and member of the
26 Board of Directors of Stemedica.

27 8. The true names and capacities, whether individual, corporate, associate, or
28 otherwise of defendants herein designated as DOE INDIVIDUALS I-X and ROE BUSINESS

1 ENTITIES I-X are unknown to Plaintiff at this time, who therefore sues said defendants by such
2 fictitious names. Specifically, Plaintiff is informed and believes that some of the defendants
3 named as DOE INDIVIDUALS and ROE BUSINESS ENTITIES are responsible for the acts and
4 liability complained of and described more fully herein. Plaintiff will seek leave to amend this
5 Complaint to allege their true names and capacities as they are ascertained.

6 **JURISDICTION AND VENUE**

7 9. Jurisdiction and venue are proper in this Court as Stemedica is a Nevada
8 Corporation and Stemedica's Founders are officers and directors of a Nevada Corporation.
9 Moreover, Stemedica's Founders have directed their actions and caused harm in this forum. All
10 Defendants have the sufficient minimum contacts with this forum and the exercise of personal
11 jurisdiction over them would not offend the traditional notions of fair play and substantial justice.

12 **GENERAL ALLEGATIONS**

13 **The Troubling Past of Stemedica's Founders**

14 10. Stemedica was founded in 2005 by R. Howe, M. Howe, and Tankovich and
15 incorporated in Nevada in July of 2005. Stemedica claims it is a developer and manufacturer of
16 mesenchymal and neural stem cells for research, pre-clinical and clinical trial applications.

17 11. Stemedica's Founders are longtime business partners. As Tiara recently learned,
18 their previous business ventures have been in companies that have made questionable scientific
19 claims over their consumer products.

20 12. According to articles published by the Bermuda Sun, Stemedica's Founders first
21 "struck gold with a laser invention called Fraxel" through a company known as Reliant
22 Technologies, Inc. However, this was after Tankovich's first laser product had to be removed
23 from the market because it did not live up to its medical claims.

24 13. Tankovich also previously served on the Board of a company known as
25 Bio-Hydration Research, along with David Cheatham, currently described as Stemedica
26 International's business managing director. Further, Tankovich was the CEO of an affiliated
27 company known as Aquaphotonics. These companies came under fierce scrutiny by regulators by
28

1 making false claims regarding the health benefits of its bottled water sold under the brand name
2 Penta.

3 14. In an article published by KPBS San Diego in September 2016, it noted that since
4 2012 Tankovich "has claimed to have an appointment at England's prestigious Trinity College,
5 part of the University of Oxford." Oxford officials, however, told KPBS that Tankovich "never
6 held an academic or any other position at Trinity College."

7 15. Stemedica's Founders also work closely with each other in a company known as
8 BioPharma Scientific, which markets a nutritional product called NanoGreens. According to an
9 article published by the Bermuda Sun, "NanoGreens' nutritional benefits are touted on
10 Biopharma's website, along with a host of testimonials from satisfied customers. But a disclaimer
11 in fine print says the product has not been evaluated by the FDA and that NanoGreens is not
12 intended for the diagnosis, treatment or prevention of any disease."

13 16. As Tiara recently learned, Stemedica's Founders have a troubling history of
14 making false representations to consumers who purchase their products and have transitioned into
15 doing the same with investors and shareholders in their latest company.

16 **Stemedica's Organizational Structure**

17 17. Stemedica is the parent company of various subsidiaries run and controlled by
18 Stemedica's founders, including CardioCell LLC ("CardioCell"), StemCutis, LLC ("StemCutis"),
19 Stemedica International, SA ("SIA"), StemProtein, LLC ("StemProtein"), and Stemedica Asia
20 Pte, Ltd. ("SAP") (collectively "Operating Subsidiaries"), discussed in detail below:

21 a. CardioCell is a Delaware Limited Liability Company incorporated in 2013.
22 Stemedica's founders claim that through an exclusive license with Stemedica, CardioCell is
23 focused on exploring cardiovascular applications for Stemedica's stem cells. R. Howe is a
24 Director and Tankovich is the Chief Medical Officer and Director on CardioCell's board. The
25 President/CEO of CardioCell, Sergey Sikora ("Sikora"), also serves as a Director on
26 StemProtein's Board and is a Managing Member of StemCutis.

27 b. StemCutis is a Delaware Limited Liability Company incorporated in 2013.
28 Stemedica's founders claim that through an exclusive license with Stemedica, StemCutis

1 purportedly is focused on exploring skin care and skin therapeutic applications for Stemedica's
2 stem cells. R. Howe and Tankovich are Managing Members of StemCutis

3 c. SIA is a corporation organized under the laws of Switzerland with a purported
4 headquarters in Lausanne, Switzerland. Stemedica's founders claim that through an exclusive
5 license with Stemedica, SIA purportedly is focused on exploring the treatment and prevention of
6 Alzheimer's disease and vascular dementia with Stemedica's stem cells. R. Howe serves as the
7 President and Director, Tankovich serves as the Chairman and Director, and M. Howe serves as a
8 Director of SIA.

9 d. StemProtein is a Delaware Limited Liability Company incorporated in 2014.
10 StemProtein is a manufacturer of preserved stem cell factors derived from Stemdica's stem cell
11 technology. Both Tankovich and R. Howe serve as Directors on StemProtein's Board. The CEO
12 of StemProtein, Thomas Silberg, also serves a Director on CardioCell's Board and is a Managing
13 Member of StemCutis.

14 e. SAP is a corporation under the laws of Singapore with a purported headquarters in
15 Singapore. Stemedica's founders claim that SAP has the exclusive rights to market and represent
16 Stemedica in the Asia Pacific region. R. Howe, M. Howe, and Tankovich all serve as Directors
17 and Senior Partners of SAP.

18 18. Upon information and belief, the Operating Subsidiaries are ultimately controlled
19 by Stemedica's Founders and these Operating Subsidiaries have served as vehicle for
20 Stemedica's Founders to conceal and perpetuate the defrauding of Stemedica's investors.

21 **Stemedica's Founders Raise Millions by Misleading Investors**

22 19. Stemedica has raised more than a hundred million dollars from investors by selling
23 securities. Upon information and belief, none of the securities have been registered under any
24 state or federal securities law.

25 20. To initially fund the company, Stemedica entered into agreements with investors
26 who purchased 9,000,000 shares from July 2005 to June 2008 of Series A Preferred Stock.
27 Through this initial funding, Stemedica raised approximately \$15 million from investors.

28

1 21. From Stemedica's inception and initial funding, Stemedica's Founders developed a
2 pattern of self-dealing and use of investor funds for their personal gain. During Stemedica's first
3 years of operation it accumulated significant net losses. Stemedica's Founders represented to
4 current and potential investors that the funds it received from selling securities were being used to
5 commercialize its stem cell technology. At the same time, and upon information and belief,
6 Stemedica's Founders neglected to inform its current and potential investors that these funds
7 ultimately ended up in the bank account of entities and individuals controlled by Stemedica's
8 Founders.

9 22. As a result, Stemedica's initial funding quickly evaporated, and
10 Stemedica's Founders were forced to seek out new investors to fund their purported operations.
11 Beginning in 2007, Stemedica sought out additional investors for a second round of financing.
12 This round of financing would close on April 2014, with Stemedica raising nearly \$70 million by
13 entering into agreements with investors for Series B Preferred Stock and common stock.

14 23. In September of 2008, Bob Sabes, a significant investor in Stemedica and personal
15 friend of Stemedica's Founders, contacted Dr. Marlon about the Company. Mr. Sabes provided
16 Marlon with a shareholder update sent from Stemedica's Founders to current shareholders on
17 September 25, 2008.

18 24. In this update, Stemedica's Founders touted the recent advances and progress of
19 Stemedica. It was represented that Stemedica's San Diego Laboratory was on the cusp of being
20 FDA certified as cGMP-complaint. Stemedica's Founders further represented that obtaining
21 cGMP-approval "will help mitigate most of the challenges the company currently faces," in that it
22 will "create positive cash flow from [Stemedica's] contract manufacturing organization."

23 25. A short time after receiving this information, Dr. Marlon was provided additional
24 information by M. Howe regarding a potential investment in Stemedica. M. Howe provided
25 information about Stemedica's business model, prospects, and future investment opportunities.
26 M. Howe represented that Dr. Marlon's investment would be used to fund Stemedica's business
27 operations in commercializing its stem cell technology.

28

1 26. Subsequent to these representations, Dr. Marlon was provided various offering
2 documents, including a form Unit Subscription Agreement and a Private Placement
3 Memorandum.

4 27. Based upon these representations, Dr. Marlon through Tiara executed the Unit
5 Subscription Agreement on November 18, 2008. The Unit Subscription Agreement called for a
6 monetary investment of approximately \$1,400,000. In return, Marlon received 233,334 Series B
7 Preferred Shares and 46,666 shares in Stemedica.

8 28. After making this initial investment, Stemedica continued to experience significant
9 net losses, and as of June 2009, Stemedica had accumulated a deficiency of nearly \$40.4 million.
10 Stemedica's Founders represented that such losses were the result of Stemedica's substantial
11 investment into research and development needed to commercialize their stem cell products. In
12 reality, these representations were false and, upon information and belief, a vast majority of
13 investor funds were being used to benefit Stemedica's Founders personally.

14 29. Despite the significant net losses, Stemedica's Founders made repeated
15 representations that Stemedica was in negotiations with various international companies that
16 would result in successful business partnerships for Stemedica and its investors.

17 30. In 2009, M. Howe approached Dr. Marlon about joining Stemedica's Board of
18 Directors. Dr. Marlon, believing he might be able to provide some guidance to Stemedica as a
19 Director due to his past experience as Chairman of the Board and Chief Executive Officer of a
20 publically-traded corporation, agreed to M. Howe nominating him as Director on Stemedica's
21 Board.

22 31. On November 20, 2009, Stemedica's Board unanimously appointed Dr. Marlon as
23 a member of Stemedica's Board of Directors. In a subsequent press release, R. Howe claimed that
24 Stemedica was "fortunate to have someone of Dr. Marlon's experience, expertise and stature
25 joining our Board. He brings first hand experience to our Board as a physician and as a prominent
26 business leader within the health care industry for the past thirty seven years."

27
28

1 32. Shortly after joining Stemedica's Board in or around December of 2009,
2 Dr. Marlon was once again approached about investing additional funds into Stemedica. M. Howe
3 represented that Stemedica needed additional financing to fund its developmental efforts.

4 33. In January of 2010, Dr. Marlon once again was provided with various offering
5 documents, including a form Unit Subscription Agreement and a Private Placement
6 Memorandum. After further discussions and reassurances from M. Howe concerning his
7 investment, Dr. Marlon through Tiara executed a second Unit Subscription Agreement on
8 January 11, 2010. The Unit Subscription Agreement called for a monetary investment of
9 approximately \$750,000. In return, Dr. Marlon received 125,000 Series B Preferred Shares and
10 25,000 common stock shares in Stemedica.

11 **Stemedica's Founders Continue to Misuse Investor Funds**

12 34. Stemedica has not conducted an independent audit of its financial statements since
13 December 31, 2011. Around the first quarter of 2014, Stemedica's Audit Committee began
14 discussions about retaining an independent auditor to conduct an audit of its financial records for
15 fiscal year of 2012 and 2013.

16 35. During the audit process, Stemedica's outside auditors informed the Audit
17 Committee and R. Howe that it uncovered potential violations of the Security Exchange Act by
18 Stemedica during the sale of the stock to investors. Specifically, Stemedica had a practice of
19 paying "finder fees" to unlicensed brokers. Stemedica was advised that this practice could result
20 in shareholders seeking rescission of their investment, resulting in significant liability for the
21 Company. Stemedica's Founders failed to disclose this information to its investors as disclosure
22 would jeopardize their continued ability to defraud past and future investors out of millions.

23 36. Further, during this audit process, Stemedica's outside auditors also advised that
24 the relationship between Stemedica and the Operating Subsidiaries was unusual and created
25 concerns over the lack of financial transparency. Realizing further scrutiny over the financial
26 transparency between Stemedica and the Operating Subsidiaries would raise more questions from
27 investors, Stemedica's Founders, upon information and belief, avoided paying the outside
28 auditor's invoices, resulting in the audit process coming to a halt towards the end of 2015. To

1 date, Stemedica has not resumed an outside audit of its financials. If audited,
2 Stemedica's Founders know their misrepresentations and misuse of investor funds will be
3 exposed.

4 37. Between 2013 and 2016, the Operating Subsidiaries, for the most part, generated
5 no revenue on their own. Yet, the Operating Subsidiaries incurred millions in "expenses." For
6 example, between this time, the Operating Subsidiaries reported approximately \$17 million in
7 purported expenses for personnel, professional fees, general and administrative expenses, and
8 travel and entertainment. Upon information and belief, these purported expenses were not for any
9 legitimate business purposes and/or were related-party transactions meant to benefit
10 Stemedica's Founders. Essentially, Stemedica's Founders funneled investor funds, including
11 Tiara's funds, from Stemedica to these Operating Subsidiaries for their own personal gain and
12 benefit, including lavish personal expenses and salaries, to the significant detriment of Tiara and
13 most likely other investors.

14 38. During the same period of time, and upon information and belief,
15 Stemedica's Founders also established a pattern of purportedly "loaning" money to the Company.
16 For example, between 2013 and 2016, Stemedica's notes payable ballooned from approximately
17 \$1.6 million to \$12.4 million, along with interest payable increasing from approximately
18 \$92,000 to nearly \$3.4 million. Based upon information and belief, these related-party loans were
19 not disclosed to other members of the Board nor reported to Stemedica's shareholders. Instead,
20 Stemedica's Founders secretly used these related-party loans with above-market rates for the
21 sole purpose of benefitting themselves by using new investor funds to pay the interest and
22 principal of these loans.

23 **Concerns Grow over the Continued Self-Dealing and Shareholder Dilution**
24 **and Stemedica Fails to Act**

25 39. Around the same time, Dr. Marlon began expressing growing concerns to
26 Stemedica's Board regarding the excessive compensation being paid to Stemedica's executives,
27 including Stemedica's Founders, and the continued dilution of current shareholder equity through
28 the issuance of excessive options and grants. For example, between 2010 and 2011,

1 Stemedica's Founders awarded themselves nearly \$1.35 million in cash bonuses at a time when
2 the Company experienced a net loss of nearly \$17 million.

3 40. During the August 2015 Compensation Committee meeting, R. Howe proposed
4 increasing his already excessive compensation along with the other Stemedica Founders'
5 compensation based upon an outdated valuation of the Company that assumed an investment by a
6 foreign government in excess of \$270 million that never occurred. The same issue was raised
7 again by R. Howe at the August 25, 2016 Compensation Committee meeting. Dr. Marlon strongly
8 opposed R. Howe's proposal to raise compensation. At the time, Stemedica was experiencing
9 significant net losses and the purported investment still had not been received.

10 41. After Dr. Marlon expressed his growing concern over the Stemedica Founders'
11 suspicious activity, including signs of potential self-dealing and shareholder dilution, Stemedica
12 agreed to purchase the shares held by Tiara in return for Dr. Marlon's \$2 million investment, and
13 Dr. Marlon's resignation from the Board upon receipt of this payment. The only qualifier to this
14 agreement was that payment would not be made for ninety-days.

15 42. Prior to the commencement of the August 25, 2016 Board meeting, Dr. Marlon
16 sent an email to Stemedica's Board memorializing the agreement reached at the Compensation
17 Committee meeting to repurchase the shares. This agreement was ratified and approved by the
18 Board at the August 25, 2016 Board meeting.

19 43. Despite this agreement, R. Howe subsequently sent correspondence to Dr. Marlon
20 in November of 2016, refusing to honor the agreement.

21 44. In response, Dr. Marlon requested certain financial statements and other
22 documents from Stemedica. Stemedica's Founders have provided a limited number of documents,
23 but have refused to provide access to critical records and documents.

24 45. Since November 2016, R. Howe made an urgent request to Stemedica's current
25 investors for immediate financing. In this request, Stemedica represented that it is currently
26 negotiating with four potential investors, but needed additional bridge financing until one of these
27 purported deals could be completed. Few details were provided. Upon information and belief,
28 these representations and claims of possible investors are false or grossly exaggerated. Rather, the

1 purpose of this letter was to obtain additional funds from Stemedica's investor to continue their
2 operations and defrauding of past and future investors.

3 46. The actions detailed above are only the tip of the iceberg. The full extent of
4 Stemedica's Founders' wrongdoing remains unknown because Tiara and auditors alike have been
5 kept in the dark.

6 **FIRST CLAIM FOR RELIEF**

7 **(Breach of Contract –Against Stemedica)**

8 47. Tiara repeats and realleges the allegations set forth above as though fully set forth
9 herein.

10 48. Tiara and Stemedica entered into a valid and existing contract, wherein Stemedica
11 agreed to repurchase its shares held in Stemedica in return for its \$2 million investment, and
12 Marlon's resignation from the Board upon receipt of this payment. The only condition to this
13 agreement was that payment would not be made for ninety days.

14 49. At all times relevant hereto, Tiara fulfilled its obligation under the agreement or
15 was otherwise excused from performance under the same.

16 50. Stemedica materially breached this agreement by failing and refusing to pay the
17 \$2 million dollars after the ninety-day period had passed.

18 51. As a direct and proximate result of the acts and omission of Stemedica, Tiara has
19 suffered and will continue to suffer direct, incidental, and consequential damages in an amount to
20 be proven at trial, but in any event in excess of \$15,000, plus prejudgment interest.

21 52. As a result of the acts and omissions of Stemedica, Tiara has been compelled to
22 hire the services of an attorney to protect its interests and is entitled to a reimbursement of its
23 attorneys' fees and costs incurred in the prosecution of this action.

24 **SECOND CLAIM FOR RELIEF**

25 **(Breach of Implied Covenant of Good Faith and Fair Dealing – Against Stemedica)**

26 53. Tiara repeats and realleges the allegations set forth above as though fully set forth
27 herein.

28

