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 LOWELL N. HAWKES, CHARTERED
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 Romriell, Ormond & Goodliffe

U.S. COURTS
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**IN THE UNITED STATES DISTRICT COURT
 DISTRICT OF IDAHO**
 The Honorable Larry M. Boyle

POCATELLO DENTAL GROUP, P.C.,
 an Idaho Professional Corporation,

Plaintiff,

vs.

INTERDENT SERVICE
 CORPORATION, a Washington
 Corporation,

Defendant,

vs.

POCATELLO DENTAL GROUP, P.C.,
 an Idaho Professional Corporation;
 DWIGHT G. ROMRIELL, individually;
 LARRY R. MISNER, JR., individually;
 PORTER SUTTON; individually;
 ERNEST SUTTON; individually;
 GREGORY ROMRIELL; individually;
 ERROL ORMOND; individually; and
 ARNOLD GOODLIFFE; individually;

*Counterdefendant and
 Third-party Defendants.*

Case No. CV-03-450-E-LMB

**DECLARATION
 OF COUNSEL
 RE
 PROPOSED
 PROTECTIVE
 ORDER**

LOWELL N. HAWKES, declares as follows:

1. This Declaration is made upon personal and professional knowledge and pursuant to 27 U. S. Code § 1746.

2. I am counsel for Third-party Defendants, Gregory Romriell, Dwight G. Romriell, Errol Ormond, and Arnold Goodliffe.

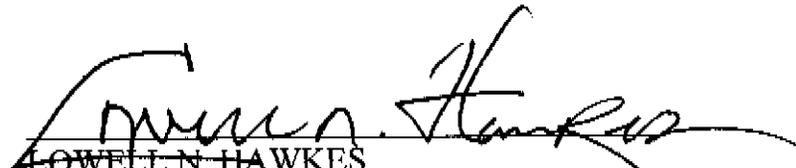
3. On behalf of my clients I previously filed on August 5, 2004, a response to the InterDent Motion for Protective Order (Docket No. 146). That Motion was discussed at the hearing on August 9, 2004 but not ripe for decision.

4. Following the Hearing on August 9, 2004, as requested by the Court I proposed a Stipulated Protective Order that met the concerns addressed in my prior opposition filing while providing for those permissible protections contemplated by Rule 26(c)(7). The resulting Stipulated Protective Order has been signed-off by Counsel for all parties except InterDent.

5. A copy of that proposed Stipulated Protective Order was faxed to Counsel for InterDent on August 12, 2004. As of this date I have not heard whether that proposed Order is acceptable to InterDent.

6. Attached to this Declaration is the original of that proposed Stipulated Protective Order.

EXECUTED this 17th day of August, 2004.


LOWELL N. HAWKES

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POCATELLO DENTAL GROUP, P.C.,
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Plaintiff,

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GREGORY ROMRIELL; individually;
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ARNOLD GOODLIFFE; individually;

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Case No. CV-03-450-E-LMB

**PROTECTIVE ORDER
WITH STIPULATION**

Upon the stipulation of counsel and good cause appearing,

IT IS HEREBY ORDERED that following Protective Order be entered:

1. **Rule 26 Good Faith Designation.** In responding to a discovery request, counsel for a party may *in good faith*, designate any document constituting a "trade secret, confidential research, development, or proprietary commercial information" within

the meaning of Rule 26(c)(7) as “Confidential” by a mark labeling the item “Confidential” or otherwise including that designation on an appropriate cover letter or document sufficient to advise the recipient of the document of the designation.

2. **“Document” Defined.** The word “document” or “documents” as used herein shall mean all paper and any other tangible thing produced in response to a formal or informal discovery request herein.

3. **Disagreement Over Designation.** In the event a recipient of a document declared Confidential disagrees with the confidential designation, the proponent of confidentiality shall be so advised in writing by the objecting party and the producing party shall have ten days within which to withdraw the confidential designation or move the Court to make a determination of confidentiality of any document in dispute. Pending such determination by the Court, any document in issue shall continue to be protected pursuant to the provisions of this Order.

4. **Use of Confidential Documents.** Except as required by law, documents identified as “Confidential” and the confidential information contained therein may be used only for purposes of this case. Provided, however, the designation of a document as confidential shall not operate as a barrier to preclude any counsel of record from the use of such document in depositions or as counsel deems appropriate incidental to his own work product and trial preparation.

5. **Disclosure to Others.** In the event counsel discloses any confidential-designated document to another person as part of counsel’s work product and trial

preparation, such other person shall be advised and given a copy of this Order and the obligation to maintain confidentiality of the document.

6. **Filing of Confidential Documents.** In the event a party seeks to use confidential-protected documents as part of any court filing, the procedures set forth in the Idaho District Local Rules shall be complied with. Where confidential-protected materials are used in depositions, those portions of the deposition transcripts describing or incorporating any protected materials shall be deemed designated as Confidential.

7. **Inadvertance/Oversight.** Inadvertent production of privileged material shall not constitute a waiver of the right to make an after-the-fact good faith designation. Upon the discovery of such inadvertent production, the producing party shall notify the parties in receipt of the material that it is designated "Confidential." An after-the-fact designation may be made orally on the record in any deposition together with any explanation relative to inadvertance or oversight and shall be honored by all present in the same manner as if originally designated Confidential.

8. **Admissibility.** The provisions of this Order shall not determine whether and to what extent any document or information is admissible into evidence.

9. **Other Law/Rules Not Affected.** This Order shall not be construed to alter the provisions of any other law or Rule relative to protecting the confidentiality of information, whether the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations enacted pursuant to HIPAA, the Local Rules of this

Court, or otherwise. This Protective Order is intended to comply with the HIPAA requirements of 45 CFR § 164.512(e)(1)(v).

10. **Use At Trial.** This Order shall not limit the use of any document at trial or at a hearing. Provided, however, prior to the use of such document at trial or a hearing all counsel shall be advised so that appropriate orders may be sought if desired by any of counsel.

11. **Return at Close of Litigation.** Within thirty (30) days of the final resolution of this litigation, a producing party of Confidential documents may request in writing that such be returned or destroyed. Counsel for a party may, however, retain copies, summaries, abstracts, or excerpts of such material to the extent necessary to substantiate services rendered on behalf of and/or advice given to that party in connection with this action. The confidentiality of any material or information retained by counsel will be preserved.

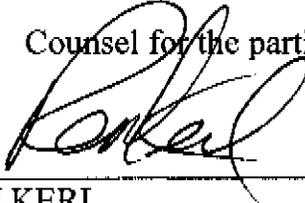
DATED this ____ day of August 2004.

BY THE COURT:

LARRY M. BOYLE, Magistrate Judge

STIPULATION

Counsel for the parties stipulate to entry of the foregoing Order.

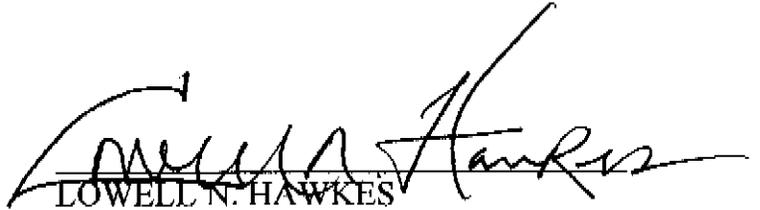


RON KERL
Counsel for Pocatello Dental Group

SCOTT J. KAPLAN
Counsel for Defendant InterDent



RICHARD A. HEARN
Counsel for Third-Party Defendant Misner



LOWELL N. HAWKES
*Counsel for Third-Party Defendants
Romriell, Ormond & Goodliffe*

CERTIFICATE OF SERVICE

I certify that on this 17th day of August, 2004, I sent by fax a copy of the foregoing to counsel for the parties as shown below:

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and

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Counsel for Defendant InterDent



LOWELL N. HAWKES
*Counsel for Third-Party Defendants
Romriell, Ormond & Goodliffe*