

FILED IN U.S. DISTRICT COURT
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CLERK OF COURT

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UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

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

Plaintiff,

v.

INTERDENT SERVICE
CORPORATION, a Washington
Corporation

Defendant.

CIVO 3-450-E-BLW

Case No.: _____

NOTICE OF REMOVAL OF CIVIL
ACTION UNDER 28 U.S.C. § 1441(a), 1446

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1441(a) and 1446, defendant Interdent Service Corporation ("Defendant"), hereby removes the above-titled civil action to the United States District Court for the District of Idaho. This Notice of Removal is based on the following grounds:

1. On October 9, 2003, the above-entitled action, *Pocatello Dental Group, P.C. v. Interdent Service Corporation*, Case No. CV-03-4962-OC was filed in the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock (the "State Action").

2. At all times material hereto, Plaintiff Pocatello Dental Group, P.C., was and is an Idaho Professional Corporation with its principal place of business in Idaho. (Exhibit B, Complaint, ¶ 1)

3. At all times material hereto, Defendant Interdent Service Corporation, was and is a Washington corporation with its principal place of business in the State of Washington. Therefore, there is complete diversity between Plaintiff and Defendant.

4. Based on our current information and belief, Plaintiff's damages claims are in excess of \$75,000.

5. Therefore, pursuant to 28 U.S.C. § 1332(a), this Court has diversity jurisdiction because this is a case between citizens of different states and their claim for damages exceeds \$75,000, exclusive of interest and costs.

6. This Notice of Removal is timely made because it is filed within thirty (30) days after the receipt by Interdent Service Corporation, through service or otherwise, of a copy of the initial complaint setting forth the claim for relief. 28 U.S.C. § 1446(b)

7. Venue is proper in this District because this action is removed from the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock and is alleged to have occurred in Chubbuck, Idaho. (Exhibit B, Complaint, ¶ 1)

8. Pursuant to 28 U.S.C. § 1446(a) and Civil Rule 5.1(d)(1), Defendant has obtained, as of October 15, 2003, a copy of the entire court record and docket sheet from the State Action as provided by the Clerk of the Court of the Sixth Judicial District of the State of Idaho for Bannock County. A copy of the docket sheet and court record are attached hereto as Exhibits A and B.

9. Counsel certifies that they will immediately file a copy of this Notice of Removal with the Clerk of the court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock and give notice of same to counsel for Plaintiff, as required by 28 U.S.C. § 1446(d).

WHEREFORE, defendant Interdent Service Corporation, respectfully requests that the court accept jurisdiction of the above-entitled action currently pending in the Sixth Judicial District of the State of Idaho, in and for the County of Bannock.

DATED this 16th day of October, 2003.



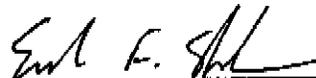
By: Erik F. Stidham
Attorney for Defendant
Interdent Service Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October, 2003 I caused to be served a true and correct copy of the foregoing NOTICE OF REMOVAL OF CIVIL ACTION by the method indicated and addressed to the following attorneys of record:

Gary L. Cooper
Ron Kerl
James P. Price
COOPER & LARSEN
151 North 3rd Avenue, Suite 210
Pocatello, ID 83205-4229

U.S. Mail
 Overnight Delivery
 Facsimile
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Erik F. Stidham

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IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

POCATELLO DENTAL GROUP, P.C.,)
an Idaho professional corporation,)
)
Plaintiff,)
)
vs.)
)
INTERDENT SERVICE CORPORATION,))
a Washington corporation,)
)
Defendant.)
_____)

Case No. CV-03-4902-DC

VERIFIED COMPLAINT
and
DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, Pocatello Dental Group, P.C. ("the Group") and for its cause of action against the above-named Defendant states and alleges:

1. The Group is a professional services corporation existing under the laws of the State of Idaho and doing business at the Pineridge Mall in Chubbuck, Idaho. The Group has formerly done business as Pocatello Dental Group, a partnership; Pocatello Dental Group, PLLC, a professional limited liability company; and Idaho Dental Group, P.A., a professional association.

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By dmw 10/14/03

2. InterDent Service Corporation ("InterDent") is a Washington corporation which is registered as a foreign corporation in the State of Idaho. InterDent provides management services to the Group as an independent contractor at the Pineridge Mall in Chubbuck, Idaho. InterDent is believed to be the successor-by-merger of GMS Dental Group Management, Inc. and Gentle Dental.

3. On October 11, 1996, Idaho Dental Group, P.A., entered into a Dental Group Management Agreement ("Management Agreement") with GMS Dental Group Management, Inc., a wholly owned subsidiary of GMS Dental. Idaho Dental then filed Articles of Amendment with the Idaho Secretary of State's office on October 18, 1996, changing its name to Pocatello Dental Group, P.C.

4. In October 1996, each of the shareholders-dentists of the Group, including Dr. Romriell, signed employment agreements with the Group. Article III of Dr. Romriell's agreement provided that:

The term of this Agreement (the "Term") shall commence on the effective date of the merger [October 11, 1996] between Pocatello Dental Group and Company and shall continue in effect until the seventh anniversary of such date, unless renewed as set forth below or terminated earlier pursuant to the provisions of this Agreement. After the seventh anniversary, this Agreement shall renew each year for a one year period unless either party gives the other party at least six (6) month's notice of its intent not to renew this Agreement.

5. On April 11, 2003, Dr. Romriell provided written notice to the Group that he did not intend to renew the agreement.

6. In early August 2003, when it became apparent that Dr. Romriell may not have a physical location to treat patients by October 11, 2003, the Group became concerned about ensuring that its patients would be properly cared for after October 11th. Dr. Romriell is certified in and

focuses his practice on the treatment of craniomandibular disorders, often referred to as "TMJ." No other dentist in the Group or in the geographical area has the expertise of Dr. Romriell in the treatment of TMJ. The Group took action, in the best interests of the patients, to ensure that patients could continue to receive treatment from Dr. Romriell after October 11, 2003 and until he was able to treat them elsewhere. It entered into a Dentist's Employment Agreement ("2003 Employment Agreement") with Dr. Romriell on August 26, 2003, to take effect on October 12, 2003.

7. The Group provided a copy of the 2003 Employment Agreement to InterDent. InterDent responded by claiming that the 2003 Employment Agreement must be authorized by the Joint Operations Committee ("JOC"). There are five members of the JOC. Of those members, only Drs. Romriell and Ormond are licensed dentists in the state of Idaho.

8. In the past, employment agreements between dentists and the Group have been signed by the president of the Group without any authorization or approval of the JOC. Nonetheless, Dr. Romriell, as a member of the JOC, sent a fax to InterDent requesting that a JOC meeting be held. InterDent never responded to the fax.

9. InterDent also responded to the 2003 Employment Agreement by threatening to physically exclude Dr. Romriell from the premises after October 11, 2003.

10. The Group responded to InterDent's positions and threats in a letter dated September 19, 2003. InterDent never replied to the letter.

11. On October 1, 2003, InterDent advised all of Dr. Romriell's staff that they were being terminated from employment effective October 11, 2003. InterDent did this without warning and without consulting with the Group or Dr. Romriell. Dr. Romriell's staff include highly trained and specialized TMJ assistants and hygienist. No other staff employed by the Group is trained to

perform the unique functions associated with Dr. Romriell's practice. Without his staff, Dr. Romriell would be unable to adequately and timely treat his patients with care.

12. Most of Dr. Romriell's patients are in the course of treatment. The treatment of TMD involves phases, known as Phase I and Phase II TMD treatment. Successful treatment is contingent upon completion of both phases. Interruption in the treatment process can have deleterious effects upon a patient. It is also in the best interest of patients that they be treated by someone who is familiar with their condition. If they are unable to see Dr. Romriell and be treated as scheduled or planned, they run the risk of physical harm which, in turn, subjects the Group to substantial professional liability. Abandoning patients in the course of treatment violates the professional, ethical and legal obligations of the dentists individually and the Group as a professional corporation and employer.

13. The treatment of TMJ patients requires special diagnostic equipment. Currently, the only place in this part of the state that has such equipment is at the Group's facility at Pineridge Mall.

14. Patient scheduling is controlled by InterDent. Upon information and belief, InterDent is refusing to schedule Dr. Romriell's patients for appointments after October 11, 2003 and is canceling appointments already made.

15. If Dr. Romriell is unable to treat patients, such patients will have to forego treatment or otherwise travel long distances, to Boise or Utah, for treatment similar to that offered by Dr. Romriell. It is in the best interests of the Group, the Group's and Dr. Romriell's patients and the community that he allowed to continue his employment with the Group according to the 2003 Employment Agreement.

FIRST CAUSE OF ACTION
Declaratory Judgment

16. The Group realleges the allegations contained in paragraphs 1 to 15 above and incorporates the same herein by reference as if fully set forth.

17. The Group has an interest in the Management Agreement and is therefore entitled to have determined any question of construction or validity arising under the Management Agreement and obtain a declaration of its rights, status or other legal relations thereunder.

18. Paragraph 5.2(b) of the Management Agreement purports to give the JOC authority to control the negotiation and execution of employment agreements between the Group and dentists.

19. Paragraph 5.2(b) of the Management Agreement is in conflict with other terms thereof which vest authority in the Group to enter into contracts with dentists and to control the practice of dentistry.

20. Paragraph 5.2(b) of the Management Agreement violates public policy because it allows individuals who are not licensed to practice dentistry in Idaho to practice dentistry by setting the terms of employment of a licensed dentist.

21. By reason of the foregoing, the Group is entitled to a declaration that (1) paragraph 5.2(b) is invalid and unenforceable, (2) that the Group was authorized to enter into the 2003 Employment Agreement with Dr. Romriell, and (3) that InterDent's failure to recognize the 2003 Employment Agreement constitutes a material breach of the Management Agreement.

SECOND CAUSE OF ACTION
Breach of Contract

22. The Group realleges the allegations contained in paragraphs 1 to 15 and 17 to 21 above and incorporates the same herein by reference as if fully set forth.

23. InterDent's failure to recognize the 2003 Employment Agreement and its threats to exclude Dr. Romriell from the premises constitute a breach of the Management Agreement.

24. InterDent is obligated under the terms of the Management Agreement to provide the Group and its dentists with a facility, equipment, supplies and support personnel. By terminating Dr. Romriell's staff and threatening to exclude Dr. Romriell from the premises, InterDent is in breach of the Management Agreement.

25. InterDent breached and continues to breach the Management Agreement by terminating Dr. Romriell's staff without the consent of the Group.

26. InterDent breached and continues to breach the Management Agreement by failing to schedule and/or canceling appointments between Dr. Romriell and his patients:

27. The Group is entitled to restrain and enjoin InterDent's breaches of the Management Agreement.

THIRD CAUSE OF ACTION Injunctive Relief

28. The Group realleges the allegations contained in paragraphs 1 to 15, 17 to 21, and 22 to 27 above and incorporates the same herein by reference as if fully set forth.

29. The Group will suffer immediate and irreparable injury unless InterDent and its principals, agents and employees are restrained, without prior notice, and enjoined from the following acts:

- a. Physically excluding Dr. Dwight Romriell from the premises of the Pocatello Dental Group practice at the Pineridge Mall in Chubbuck, Idaho.

- b. Refusing to pay Dr. Dwight Romriell compensation and benefits according to the 2003 Employment Agreement.
 - c. Terminating, refusing to pay compensation and benefits to , or reducing the hours of Dr. Dwight Romriell's staff, including Shonda Bauer, Elyse Harper, Tangi Kutler, Sheri Yerbick and Autumn Hoskins, without his consent.
 - d. Refusing to schedule Dr. Dwight Romriell's patients, including existing and new patients, for appointments.
 - e. Cancelling appointments scheduled for Dr. Dwight Romriell without his consent.
 - f. Committing any act which interferes with the relationship between Dr. Dwight Romriell and his patients or in any way inhibits his ability to treat his patients in an efficient and effective manner.
30. The threatened injury to the Group outweighs whatever damage the proposed order of injunction may cause by restraining or enjoining InterDent.
31. There is a substantial likelihood that the Group will prevail on the merits of this action.

**FOURTH CAUSE OF ACTION
Additional Breaches of Contract**

32. InterDent filed for filed for bankruptcy on May 9, 2003 in the United States Bankruptcy Court for the Central District of California ("Bankruptcy Court").

33. On October 3, 2003 the Bankruptcy Court entered its Order confirming InterDent's Chapter 11 Plan. The effective date of the Plan is currently set for October 31, 2003.

34. Since October 4, 2003, in addition to the breaches set forth above, InterDent has breached and continued to breach the Management Agreement by its:

- a. failure to include in dentists' compensation the dentists' share of interest charged on patients' accounts;
- b. failure to deposit accounts receivable in an account approved by the Group;
- c. failure to pay the claims and obligations of the Group;
- d. interference with the Group's practice of dentistry;
- e. failure to hire and train all non-dentist personnel necessary for the operation of the practice;
- f. charging paid time off, a benefit, to dentists as direct wages;
- g. failure to maintain practice as the preeminent group practice in the Pocatello and surrounding area;
- h. failure to provide and maintain equipment and supplies necessary for the efficient and effective operation of the practice;
- i. failure to provide an experienced manager;
- j. failure to provide financial statements and accounting records;
- k. denial of access to patients' records; and
- l. violation of laws and public policy related to the practice of dentistry.

35. The Group reserves the right, upon notification to this Court that InterDent's Chapter 11 Plan is in effect, to assert claims for damages and other relief, including termination of the Management Agreement, occasioned by the foregoing breaches of the Management Agreement.

