

Bisceglie Obtains \$44 Million Jury Verdict

Olshan Client Guidance Endo prevails against industry giant DENTSPLY

NEW YORK, Oct. 14 -- Olshan Grundman Frome Rosenzweig & Wolosky LLP today announced that Kyle C. Bisceglie, as trial counsel, Renee M. Zaytsev and other Olshan attorneys including Herbert C. Ross and Joshua S. Androphy won a \$44 million jury award in the U.S. District Court for the District of New Mexico in Albuquerque for client Guidance Endodontics, LLC. The verdict against Dentsply International, Inc. and Dentsply's endodontics subsidiary, Tulsa Dental Products, LLC, is reputed to be the largest current standing verdict in New Mexico state or federal court history. Olshan's co-counsel in New Mexico was Modrall, Sperleng, Roehl, Harris and Sisk, PA led by its distinguished shareholder John J. Kelly, Esq.

The three-week trial from September 18, 2009 to October 9, 2009 before U.S. District Court Judge James O. Browning to a nine member jury was the culmination of multi-year, multi-jurisdiction litigations between Guidance, Dentsply and Tulsa Dental. In this case, Guidance sued Dentsply and Tulsa Dental on November 21, 2008 seeking damages and injunctive relief arising from multiple breaches of an exclusive manufacturing and supply agreement, anti-competitive and unfair business practices under the New Mexico Unfair Practices Act and violation of the Lanham Act. The Court granted Guidance both a temporary restraining order and preliminary injunction in eight days of hearings in December 2008 and January 2009. Dentsply and Tulsa Dental filed multiple claims of their own against Guidance and its founder, Dr. Charles J. Goodis.

At trial, Guidance alleged that the defendants intentionally thwarted Guidance's business by refusing to supply endodontic instruments as stipulated in the agreement between the companies. Additionally, Guidance claimed that Dentsply and Tulsa Dental disparaged Guidance, used their position as Guidance's supplier to their own competitive advantage and targeted Guidance and its customers. Guidance argued that defendants' motive was to retain defendants' dominant market share and high prices in the face of Guidance's low cost provider model of business.

The case was tried approximately ten months after Guidance sued. Guidance sought \$6.7 million in compensatory and \$52 million in punitive damages, and ultimately won \$4 million in compensatory damages and \$40 million in punitive damages. As part of its verdict, the jury found for Guidance on two claims for breach of contract, breach of the covenant of good faith and fair dealing and willful breach of the New Mexico Unfair Trade Practices Act.

"We are pleased with the jury's decision," said Mr. Bisceglie. "Clearly the jury sent a message to Dentsply about its business practices, and our hope is that Dentsply will heed and respect the jury's decision." The jury verdict could have far-reaching consequences for the endodontic and dental industry.

About Olshan

Olshan Grundman Frome Rosenzweig & Wolosky LLP is a dynamic, mid-size law firm with offices in Park Avenue Tower in Manhattan. The firm has been consistently recognized by its peers and clients as a leading U.S. law firm for complex litigation, corporate and securities law, real estate, bankruptcy and creditors' rights, intellectual property and licensing, employment and taxation.

This publication is issued by Olshan Grundman Frome Rosenzweig & Wolosky LLP for informational purposes only and does not constitute legal advice or establish an attorney-client relationship. To ensure compliance with requirements imposed by the IRS, we inform you that unless specifically indicated otherwise, any tax advice contained in this publication was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any tax-related matter addressed herein. In some jurisdictions, this publication may be considered attorney advertising.

Copyright © 2009 Olshan Grundman Frome Rosenzweig & Wolosky LLP. All Rights Reserved.

Heather W. Rutner
hrutner@olshanlaw.com