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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

DENTSPLY INTERNATIONAL,	.	DOCKET NO. CV-2-14-196
INC. AND TULSA DENTAL	.	
PRODUCTS LLC D/B/A TULSA	.	
DENTAL SPECIALTIES,	.	
	.	
PLAINTIFFS,	.	
	.	
VS.	.	GREENEVILLE, TN
	.	NOVEMBER 25, 2014
US ENDODONTICS, LLC,	.	9:05 A.M.
	.	VOLUME I
DEFENDANT.	.	
	.	
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TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE J. RONNIE GREER
UNITED STATES DISTRICT JUDGE



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APPEARANCES:

FOR THE PLAINTIFFS:

ROTHWELL, FIGG, ERNST &
MANBECK, P.C.
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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT
PRODUCED BY COMPUTER.

1 THE COURT: ALL RIGHT, THEN IT'S JUST THE
2 FINANCIAL INFORMATION THAT'S AT ISSUE?

3 MR. GINSBERG: THAT'S CORRECT, YOUR HONOR.

4 THE COURT: I WOULD PREFER TO CLOSE THE
5 COURTROOM ONLY ONE TIME AND LIMIT IT AS MUCH AS WE CAN.
6 I GENERALLY HAVE A VERY STRONG BIAS IN FAVOR OF DOING THE
7 PUBLIC'S BUSINESS IN THE PUBLIC EYE; BUT I UNDERSTAND THAT
8 THERE IS A PROTECTIVE ORDER IN THIS CASE, I UNDERSTAND
9 THAT SOME FINANCIAL INFORMATION MAY BE SENSITIVE, AND SO
10 I'LL AGREE TO DO THAT TO A LIMITED BASIS; BUT -- AND YOU
11 JUST NEED TO LET ME KNOW WHEN WE GET TO THAT POINT.

12 MR. GINSBERG: THANK YOU, YOUR HONOR.

13 THE COURT: ALL RIGHT. ANYTHING ELSE AT ALL?

14 ALL RIGHT. MR. LIEBERMAN, CALL YOUR FIRST
15 WITNESS, DISTRIBUTE YOUR BINDERS, HOWEVER -- NOBODY
16 REACTED TO WHAT I SAID ABOUT OPENING STATEMENT. IS THERE
17 ANYTHING ELSE YOU NEED TO TELL ME THAT'S NOT IN THE
18 PLEADINGS?

19 MR. LIEBERMAN: NO, YOUR HONOR. WE, WE PUT
20 EVERYTHING WE HAD IN THE PAPERS.

21 THE COURT: ALL RIGHT.

22 MR. GINSBERG: SAME FOR THE DEFENDANT.

23 THE COURT: ALL RIGHT. ALL RIGHT. THEN LET'S
24 GO STRAIGHT TO THE PROOF THEN.

25 MR. LIEBERMAN: PLAINTIFFS CALL DR. NEILL

1 LUEBKE TO THE STAND.

2 NEILL LUEBKE, PLAINTIFFS' WITNESS, SWORN

3 MR. LIEBERMAN: MAY I APPROACH WITH THE BINDERS
4 FOR THE COURT, YOUR HONOR?

5 THE COURT: YES, THE CLERK WILL GET THOSE JUST
6 IN A MOMENT.

7 YOU MAY PROCEED.

8 MR. LIEBERMAN: THANK YOU, YOUR HONOR.

9 DIRECT EXAMINATION

10 BY MR. LIEBERMAN:

11 Q. COULD YOU PLEASE TELL THE COURT WHO YOU ARE, DR.
12 LUEBKE.

13 A. MY NAME IS NEILL LUEBKE, AND I HAVE BEEN A DENTIST
14 FOR 45 YEARS, AND I HAVE TWO PATENTS IN THIS SUIT.

15 Q. AND WHERE DO YOU LIVE?

16 A. I LIVE IN BROOKFIELD, WISCONSIN, A SMALL TOWN IN
17 WISCONSIN; AND I LIVE THERE WITH MY FRIEND, AND WE'VE BEEN
18 MARRIED 45 YEARS. WE HAVE TWO GROWN CHILDREN, JOHN AND
19 MICHELLE.

20 Q. COULD YOU TELL THE COURT A LITTLE BIT ABOUT YOUR
21 PROFESSIONAL WORK OVER THE YEARS.

22 A. WELL, I'VE BEEN A DENTIST SINCE 1969 AND PRACTICED
23 DENTISTRY AND THEN BECAME AN ENDODONTIST IN 1980 AND
24 BECAME A BOARD CERTIFIED DENTIST IN 1991.

25 Q. AND HOW MANY YEARS HAVE YOU BEEN PRACTICING, DOCTOR,

1 THE COURT: THAT'S ABOUT AS CLOSE AS I'D LIKE
2 TO COME.

3 Q. AND IS THAT A HEAT TREATED FILE OR A NON --

4 A. NO, IT'S NOT. NO, IT'S NOT. IF I FLICK IT, YOU CAN
5 SEE THAT IT GOES RIGHT BACK, SO THAT'S A SUPERELASTIC
6 NICKEL-TITANIUM FILE.

7 Q. AND ASK YOU TO LOOK AT PLAINTIFFS' EXHIBIT 6 FOR
8 IDENTIFICATION.

9 A. YES.

10 Q. CAN YOU TELL THE COURT WHAT THAT IS?

11 A. AND THIS IS -- THESE ARE THE FILES THAT I USED IN MY
12 PRACTICE. THESE ARE NICKEL-TITANIUM, BUT I HAVE HEAT
13 TREATED THESE; AND SO, YOUR HONOR, WHEN I BEND THESE, THEY
14 DON'T GO BACK.

15 MR. LIEBERMAN: YOUR HONOR, WE WOULD MOVE THE
16 ADMISSION OF PLAINTIFF'S EXHIBITS 5 AND 6.

17 THE COURT: THEY'RE ADMITTED.

18 MR. GINSBERG: NO OBJECTION.

19 Q. NOW, THE PHOENIX FILES, EXHIBIT 6 THAT YOU
20 MENTIONED --

21 A. EXCUSE ME.

22 Q. -- DO YOU SELL THOSE PHOENIX FILES?

23 A. NO.

24 Q. AND WHAT DO YOU USE THEM FOR?

25 A. THEY WERE MADE FOR ME SPECIFICALLY, SO THOSE ARE MY

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