

PRESS RELEASE

For Immediate Publication

For more information, contact:
Communications Department,
505-848-1800, X 1628

January 8, 2010

MODRALL SPERLING OBTAINS \$44 MILLION JURY VERDICT

Client Guidance Endo prevails against industry giant DENTSPLY

Albuquerque, NM – Modrall Sperling 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 in October 2009. The case against Dentsply International, Inc. and Dentsply's endodontics subsidiary, Tulsa Dental Products, LLC, involved breach of an exclusive manufacturing and supply agreement, anti-competitive and unfair business practices under the New Mexico Unfair Trade Practices Act and Lanham Act violations. The plaintiffs' verdict is one of the largest in New Mexico state or federal court history. Shareholders John J. Kelly, who served as lead trial counsel, and Donald A. DeCandia, along with associates Ryan Flynn and Emil J. Kiehne, served as key Modrall Sperling lawyers in the case. Olshan, Grundman, Frome, Rosenzweig and Wolosky LLP, in New York City, served as co-counsel, led by partner Kyle Bisceglie.

The three-week trial from September 18, 2009 to October 9, 2009 before U.S. District Court Judge James O. Browning and a nine-member jury followed two prior patent infringement cases between the parties that did not go to trial. In this case, Guidance sued Dentsply and Tulsa Dental on November 21, 2008 seeking damages and injunctive relief. Dentsply and Tulsa Dental filed multiple claims of their own against Guidance and its founder, Dr. Charles J. Goodis. The Court granted Guidance both a temporary restraining order and preliminary injunction in eight days of hearings in December 2008.

At trial, Guidance demonstrated that the defendants 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 customers with special promotions at the same time they were refusing to supply products. Guidance argued that defendants' motive was to retain defendants' dominant market share and high profit margins in the face of Guidance's low cost direct marketing business model.

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.

About Modrall Sperling

Modrall Sperling is the largest law firm in New Mexico and has more attorneys listed in the Best Lawyers in America than any New Mexico-based law firm. The firm has 82 attorneys in two offices located in Albuquerque and Santa Fe. It provides a full range of legal services to business clients, including litigation.

K:\dox\client\90000\675\W1147956.DOCX