

**WOMACK, LANDIS, PHELPS & McNEILL**

A Professional Association  
Attorneys at Law  
Century Center  
301 West Washington  
P. O. Box 3077  
Jonesboro, Arkansas 72403

Chuck Gschwend  
*Of Counsel*

Tom D. Womack  
David Landis  
John V. Phelps  
Paul McNeill  
Richard Lusby  
Jeffrey W. Puryear  
Mark Mayfield  
J. Rogers McNeil  
Dustin H. Jones  
J. Nicholas Livers  
Raney E. Coleman  
Jared S. Woodard  
Serena T. Green  
Jeffrey Scriber

www.wlpmlaw.com

Telephone (870) 932-0900  
Facsimile (870) 932-2553

*jphelps@wlpmlaw.com*

March 5, 2008

Ms. Mary A. Johnson  
Courtroom Deputy  
D444 Richard Sheppard Arnold  
U.S. Courthouse  
500 West Capitol  
Little Rock, AR 72201-3325

Re: Otto Dental Supply, Inc. v: Kerr Corporation  
United States District Court, Eastern District of  
Arkansas, Western Div. No. 4:06cv01610GH

Dear Mary:

Please allow me to refer to the above referenced case.

The Court's Order of February 13, 2008 denied cross motions for summary judgment. His Honor denied other defense motions, with the exception of ruling upon subpart "D" of our Summary Judgment Motion relating to portions of the plaintiff's damage claims.

First, we moved for summary judgment on the punitive damage issues since this is a breach of contract claim.

Next, we moved for summary judgment on all claims for treble damages because the applicable statute, A.C.A. § 4-72-207 relates to misconduct at the time of the initial creation of the alleged franchise. There are no allegations of any such conduct at that time.

Accordingly, and most respectfully, we re-tender that portion of our motion for the Court's consideration.

With every good wish, I am

Very truly yours,

WOMACK, LANDIS, PHELPS & McNEILL

J. V. Phelps

JVP:knq

cc. Tony L. Wilcox