

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: DENTAL SUPPLIES AND
EQUIPMENT ANTITRUST LITIGATION**

MDL No. 2813

ORDER DENYING TRANSFER

Before the Panel:* Defendants Benco Dental Supply Company (Benco) and Patterson Companies, Inc. (Patterson) move under 28 U.S.C. § 1407 to centralize pretrial proceedings in this litigation in the Eastern District of New York. This litigation consists of thirty-six actions—thirty-five actions pending in the Eastern District of New York and one action pending in the Eastern District of Texas—as listed on Schedule A.¹ Plaintiff in the Texas action, Archer and White Sales, Inc. (Archer) opposes centralization. No other parties responded to the motion.

On the basis of the papers filed and the hearing session held, we conclude that centralization is not necessary for the convenience of the parties and witnesses or to further the just and efficient conduct of the litigation. These actions share common factual questions relating to allegations that Benco, Patterson, and non-movant Henry Schein, Inc., all of which are distributors of dental supplies and equipment, engaged in a price-fixing conspiracy and agreed to block the entry and expansion of lower-margin distributors (such as Archer) into the market by pressuring manufacturers of dental equipment to refuse to deal with the lower-margin distributors. The procedural posture of these actions, though, weighs heavily against centralization. The Texas action—the only action proposed for transfer—has proceeded at an expeditious pace. Discovery is complete, dispositive motions are pending, and trial is set to begin on May 14, 2018. The New York actions are similarly advanced—discovery is nearly complete, dispositive motions are pending in the *SourceOne* competitor action, and a class certification motion will be filed in the thirty-four consolidated class actions by February 22, 2018. There are few pretrial proceedings remaining that would benefit from centralized treatment. Accordingly, centralization at this juncture will not produce significant efficiencies and would delay resolution of the actions. *Cf. In re Signal Int'l LLC Human Trafficking Litig.*, 38 F. Supp. 3d 1390, 1391 (J.P.M.L. 2014) (denying centralization where common fact discovery was mostly complete and trial was imminent).

* Judge Ellen Segal Huvelle took no part in the decision of this matter.

¹ The motion initially included thirty-seven actions. Subsequently, one action in the Eastern District of New York was dismissed.

IT IS THEREFORE ORDERED that the motion for centralization of these actions is denied.

PANEL ON MULTIDISTRICT LITIGATION

Sarah Vance

Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
Catherine D. Perry

Charles R. Breyer
R. David Proctor

SCHEDULE A

Eastern District of New York

COMFORT CARE FAMILY DENTAL, P.C., ET AL. v. HENRY SCHEIN, INC.,
ET AL., C.A. No. 1:16-00282

ROBERT W. GRODNER, DDS v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-00345

BAUER DENTAL ARTS v. HENRY SCHEIN, INC., ET AL., C.A. No. 1:16-00355

DR. ROBERT CORWIN, DDS v. BENCO DENTAL SUPPLY CO., ET AL.,
C.A. No. 1:16-00442

KEITH SCHWARTZ, D.M.D., P.A. v. BENCO DENTAL SUPPLY CO., ET AL.,
C.A. No. 1:16-00443

DR. STEPHEN M. GRUSSMARK, DDS v. BENCO DENTAL SUPPLY CO., ET AL.,
C.A. No. 1:16-00479

DRESNIN v. PATTERSON COMPANIES, INC., ET AL., C.A. No. 1:16-00497

HOWARD M. MAY, DDS, PC v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-00548

BEMUS POINT DENTAL, LLC v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-00560

KOTTEMANN ORTHODONTICS, P.L.L.C. v. BENCO DENTAL SUPPLY CO.,
ET AL., C.A. No. 1:16-00576

NAGHMEH YADEGAR, D.D.S., INC. v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-00591

EVOLUTION DENTAL SCIENCE, LLC v. PATTERSON COMPANIES, INC.,
ET AL., C.A. No. 1:16-00596

NELSON v. PATTERSON COMPANIES, INC., ET AL., C.A. No. 1:16-00609

PECK v. PATTERSON COMPANIES, INC., ET AL., C.A. No. 1:16-00616

PETER BENCE, DMD, P.A. v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-00631

KANELLOS & KOTIS v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-00657

OMID FARAHMAND DMD, INC. v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-00661

PJCC DENTAL PC v. HENRY SCHEIN, INC., ET AL., C.A. No. 1:16-00662

WEST LA DENTAL HEALTH CARE CENTER v. PATTERSON COMPANIES, INC.,
ET AL., C.A. No. 1:16-00666

ANTHONY J. PEPPY DDS & SAMUEL J. PEPPY JR., DDS PC v. BENCO DENTAL
SUPPLY COMPANY, ET AL., C.A. No. 1:16-00691

SHAYSTEHFAR v. PATTERSON COMPANIES, INC., ET AL., C.A. No. 1:16-00692

Eastern District of New York (cont.)

IN RE DENTAL SUPPLIES ANTITRUST LITIGATION, C.A. No. 1:16-00696
RITTENHOUSE SMILES, P.C. v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-00762
THOMAS CASPERS, D.D.S., P.S., ET AL. v. PATTERSON COMPANIES, INC.,
ET AL., C.A. No. 1:16-00765
WHITE v. PATTERSON COMPANIES, INC., ET AL., C.A. No. 1:16-00945
GREENBERG v. PATTERSON COMPANIES, INC., ET AL., C.A. No. 1:16-01280
CORNERSTONE DENTISTRY, P.C. v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 1:16-01333
SOURCEONE DENTAL, INC. v. PATTERSON COMPANIES, INC., ET AL.,
C.A. No. 2:15-05440
BERMUDEZ v. PATTERSON COMPANIES, INC., ET AL., C.A. No. 2:16-00570
INDIANOLA FAMILY DENTISTRY, P.L.C. v. PATTERSON COMPANIES, INC.,
ET AL., C.A. No. 2:16-00658
STYGER, DDS v. BENCO DENTAL SUPPLY CO., ET AL., C.A. No. 2:16-00712
DENNIS M. WINTER, D.D.S., P.C., ET AL. v. PATTERSON COMPANIES, INC.,
ET AL., C.A. No. 2:16-00751
JOHNNIDIS v. BENCO DENTAL SUPPLY CO., ET AL., C.A. No. 2:16-00906
WOLGIN v. BENCO DENTAL SUPPLY CO., ET AL., C.A. No. 2:16-01020
SCOTT T. OZAKI DDS INC. v. HENRY SCHEIN, INC., ET AL., C.A. No. 2:16-01377

Eastern District of Texas

ARCHER AND WHITE SALES, INC. v. HENRY SCHEIN, INC., ET AL.,
C.A. No. 2:12-00572