

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

Evolution Dental Science, LLC, on behalf of itself and all others similarly situated, Plaintiff, v. BENCO DENTAL SUPPLY COMPANY; HENRY SCHEIN, INC.; and PATTERSON COMPANIES, INC.; Defendants.	Civil Action No. 1:16-cv-596 CLASS ACTION COMPLAINT JURY TRIAL DEMANDED
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CLASS ACTION COMPLAINT

Plaintiff Evolution Dental Science, LLC (“Plaintiff”), by and through the undersigned counsel, and on behalf of itself and all other similarly situated direct purchasers of dental supplies and equipment distribution services from the above-named Defendants, brings this action for treble damages and injunctive relief under Section 1 of the Sherman Antitrust Act and Section 3 of the Clayton Antitrust Act, demanding a trial by jury of all issues so triable. Plaintiff alleges the following, based upon personal knowledge as to matters relating to itself, and upon information and belief and the investigation of counsel as to all other matters:

NATURE OF THE ACTION

1. Plaintiff is a direct purchaser of dental supplies and equipment from Defendants Henry Schein, Inc. and Patterson Companies, Inc., seeking to represent a class of some 142,000 unique dental practices, orthodontic practices, and dental laboratories (“dentistry practices”) operating within the United States, most of which are small sole-practitioner operations.
2. Defendants Benco Dental Supply Company (“Benco”), Henry Schein, Inc. (“Henry

Schein”), and Patterson Companies, Inc. (“Patterson,” collectively, “Defendants”) are by far the largest distributors of dental supplies and equipment in the United States. Insulated by high barriers to entry and their own anticompetitive conduct, Defendants have collectively accounted for between 80% and 90% of this highly concentrated market, with Henry Schein individually holding some 41% of the market, Patterson some 34%, and Benco roughly 8%.

3. This case involves a multi-faceted and years-long campaign by Defendants to block the entry and expansion of lower-priced and higher quality rival dental distributors, with the aim and effect of preserving their supracompetitive prices and profit margins. Defendants engaged in a concerted and collusive effort that involved threats to boycott, and actual boycotts of, dental supply and equipment manufacturers, state dentistry trade associations, and dentistry practices that chose to deal with rival dental supplies and equipment distributors. As a consequence of Defendants’ substantial collective market power and Henry Schein’s and Patterson’s individual market power, the threatened and actual boycotts were successful in deterring market participants from doing business with or associating with Defendants’ rival distributors—cutting these rivals off from critical suppliers and customer bases. Defendants’ boycotting efforts have impaired these rivals, foreclosed them from the relevant antitrust market, and in turn removed the natural downward pressure on market prices that flows directly from enhanced competition. The result has been higher prices paid by Plaintiff and all other dentistry practices that purchased dental supplies and equipment distribution services directly from Defendants than the prices that would have prevailed in a market undistorted by Defendants’ anticompetitive conduct.

4. The conduct complained of herein has spawned private actions by at least two of

Defendants' rivals—one in 2012 by Archer and White Sales, Inc.,¹ and another in 2015 by SourceOne Dental, Inc. ("SourceOne")—as well as government investigations by the Arizona Attorney General, the Texas Attorney General, and the Federal Trade Commission. SourceOne's suit is pending in this District,² and specifically alleges that Defendants' conduct has stifled its growth, allowing Defendants to charge higher prices than those that would have prevailed had Defendants had to respond to SourceOne's lower-priced and higher-quality distribution offering on the merits. The Texas Attorney General's investigation has already resulted in a complaint and consent judgment against Benco, and continues against the remaining Defendants.

5. The concerted conduct alleged herein constitutes an unlawful combination, conspiracy, and group boycott that is *per se* illegal under Section 1 of the Sherman Act and Section 3 of the Clayton Act. Additionally, viewing Henry Schein's and Patterson's individual anticompetitive efforts in isolation from those of its peers, their exclusionary conduct constitutes vertical restraints of trade that, judged under the rule of reason, are illegal under the same statutes. In either case, Defendants' conduct, whether viewed individually or collectively, has suppressed competition, causing direct purchasers like Plaintiff antitrust injury in the form of reduced consumer choice, reduced consumer welfare, and overcharge damages flowing from Defendants' imposition of supracompetitive pricing.

JURISDICTION AND VENUE

6. Plaintiff brings claims under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 and Section 3 of the Clayton Antitrust Act, 15 U.S.C. § 14, seeking treble damages pursuant to

¹ *Archer and White Sales, Inc. v. Henry Schein, Inc. et al.*, 2:12-cv-00572-JRG-RSP (E.D. Tex.) (dispute currently proceeding in private arbitration).

² *SourceOne Dental, Inc. v. Patterson Companies, Inc.*, et al., No. 15-cv-5440-BMC (E.D.N.Y.) (Cogan, J.).

Section 4 of the Clayton Antitrust Act, 15 U.S.C. § 15 and injunctive relief pursuant to Section 16 of the Clayton Antitrust Act, 15 U.S.C. § 26. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §§ 1331 and 1337(a).

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 15 U.S.C. § 22 as Defendants reside, transact business, committed an illegal or tortious act, have an agent, or can be found in this District and a substantial portion of the events described below have been carried out in this District.

8. This Court has personal jurisdiction over Defendants as each distributes dental supplies and equipment within this District, enters into contracts within this District, markets its distribution offering in this District, and otherwise transacts business within this District.

INTERSTATE COMMERCE

9. Henry Schein operates its business from 65 distribution centers throughout the nation.

10. Patterson operates its business from 8 distribution centers throughout the nation.

11. Benco operates its business from 6 distribution centers throughout the nation.

12. These distribution centers facilitates the sale of dental supplies and equipment to dentistry practices nationwide, in a continuous and uninterrupted flow of commerce across state lines.

13. As the dental supplies and equipment distribution at issue in this action are sold in interstate commerce, the price impact on dental supplies and equipment distribution flowing from Defendants' unlawful conduct has had a substantial effect upon interstate commerce.

PARTIES

14. Plaintiff is a private dental laboratory in Buffalo, New York. During the class period defined below, Plaintiff purchased dental supplies and equipment from Henry Schein and Patterson at prices that were artificially inflated as a result of the conduct alleged herein.

15. Henry Schein, which is incorporated under the laws of Delaware with its headquarters in Melville, New York, is the nation's largest distributor of dental supplies and equipment.

16. Patterson, which is incorporated under the laws of Minnesota with its headquarters in St. Paul, Minnesota, is the nation's second largest distributor of dental supplies and equipment.

17. Benco, which is incorporated under the laws of Delaware with its headquarters in Pittston, Pennsylvania, is the nation's third largest distributor of dental supplies and equipment.

THE RELEVANT MARKET AND DEFENDANTS' MARKET POWER

18. To the extent any of Plaintiff's claims must proceed under the rule of reason or otherwise require the definition of a relevant market, the market relevant to Plaintiff's federal antitrust claims is the United States market for dental supplies and equipment distribution services.

19. In order to treat their patients, dentistry practices regularly consume dozens if not hundreds of different types of dental supplies and equipment on a routine basis, including, *inter alia*: acrylics, adhesive agents, alloys, anesthetics, articulating products, burs, cements and liners, crown and bridge products, endodontics, implants, impression materials, instruments, pins and posts, retraction materials, rubber dam materials, and waxes as well as infection control products, x-ray accessories, imaging devices, dental chairs, and CAD/CAM systems.

20. There are hundreds of dental supplies and equipment manufacturers operating within the United States that create the products dentistry practices require to treat their patients. To avoid the burden and expense associated with purchasing, processing, and receiving orders from dozens of manufacturers on a regular basis, dentistry practices use distributors, like Defendants, who stock a wide-ranging, if not complete, catalogue of dental manufacturers' products. Approximately 75% of all such supplies are sold through distributors like Defendants.

21. Defendants purchase dental supplies and equipment products from dental manufacturers,

warehouse them in their distribution centers, and resell and deliver them directly to dentistry practices like Plaintiff, charging dentistry practices the product's cost from the manufacturer plus a distribution fee on top of the product's cost from the manufacturer. This distribution fee can be as much as the cost of the underlying product itself.

22. Because of the burden, expense, and inefficiency associated with purchasing, processing, and receiving orders from dozens of manufacturers, purchasing direct from manufacturers is not a reasonably available substitute for purchasing through distributors. By purchasing through a distributor, dentistry practices can place, process, and receive one order and shipment, saving both time and money compared with ordering all of the various products they need from the individual manufacturers. Moreover, manufacturers themselves lack the distribution channels necessary to efficiently, affordably, and timely provide dentistry practices with their products; as such, even if manufacturers do offer some direct purchasing options, those options are of notably inferior quality compared to purchasing through a distributor. Some (if not many) manufacturers do not offer direct purchasing options at all, requiring dentistry practices to purchase those manufacturers' products through distributors like Defendants. This means that dental supplies and equipment manufactures could not discipline Defendants' pricing power even if, contrary to fact, they did offer lower-cost or higher-quality direct purchasing options.

23. Additionally, other dental supplies and equipment distributors cannot discipline Defendants' pricing power *unless* they offer as full and comprehensive a product line as do Defendants. If a rival distributor offers lower prices but a narrow product line, requiring a dentistry practice to continue to order from multiple other distributors or individual manufacturers to fill any "gaps" in the rival's product offering, then that rival presents dentistry practices with the same problems associated with purchasing from individual manufacturers.

Defendants' conduct has prevented their rival dental supplies and equipment distributors from being able to offer a full and comprehensive product line. As a result, there is no significant positive cross-price elasticity of demand between Defendants' offerings and less diverse dental distributors (or dental manufacturers).

24. At all times relevant hereto, Defendants have collectively and, as to Henry Schein and Patterson, individually, possessed market power—that is, they were price makers, facing downward sloping demand curves and maintaining the ability to profitably raise prices significantly above competitive levels without losing a commensurate number of sales—in the United States market for dental supplies and equipment distribution services. Accordingly, a small but significant non-transitory increase in price by Defendants would not cause them to lose a significant number of sales to rival distributors or to dental manufacturers.

25. The United States dental supplies and equipment distribution services market is marked by several characteristics that both facilitate the market's susceptibility to anticompetitive conduct and bolster the incumbent Defendants' substantial market power.

26. *First*, the market is highly concentrated. Defendants collectively occupy between 80% and 90% of the relevant market, correlating to a Herfindahl-Hirschman Index (“HHI”)—a common measure of industry concentration utilized by the United States Department of Justice and economists throughout the nation—of over 3,000. An HHI over 2,500 is considered to be a “highly concentrated” industry. Even the fringe of the market occupied by rival distributors is composed mostly of regional or local companies that serve specific geographic areas (due in no small part to Defendants' attempts to block entry and expansion by their rivals), limiting their ability to discipline Defendants' pricing in any meaningful way. This market concentration makes it easier for Defendants to effectuate anticompetitive schemes and more difficult for direct

purchasers to circumvent the adverse effects of any anticompetitive conduct.

27. *Second*, the market also displays high entry barriers. Crucial industry access points such as state dental associations also serve as entry barriers as those critical junctures, which connect suppliers with customers, can be, and in fact are, manipulated by large incumbents like Defendants. Traditional distributors also face problems of economies of scale and scope and the entry- or expansion-related costs of establishing distribution centers and channels, including purchasing or renting facilities and vehicle fleets as well as staffing the same. Like high market concentration, these barriers make it easier for Defendants to effectuate anticompetitive schemes and more difficult for direct purchasers to circumvent their adverse effects.

28. *Third*, the market is characterized by relatively static demand. Faced with static or declining demand, firms *should* attempt to undercut one another's prices to steal market share from one another. However, the fear of lower prices and lower profits margins creates a greater incentive to engage in anticompetitive conduct to preserve corporate profits. Demand has remained relatively consistent, particularly because insured adults and children receive routine dental care coverage and dental care demand is directly correlated with dental supplies and equipment demand. Yet, Henry Schein and Patterson have consistently raised their distribution prices year-after-year. Rising prices in a market facing static or declining demand are inconsistent with competitive equilibrium prices and demonstrates that the market has been distorted by anticompetitive conduct.

DEFENDANTS' EXCLUSIONARY CONDUCT HAS HARMED COMPETITION

29. Defendants enjoy substantial profit margins, with Patterson reaching a high of 11% in 2010 and 2011. These high profit margins contrast sharply with the observed profit margins in other medical distribution sectors. For example, profit margins for the "big three" pharmaceutical

distributors in the United States (McKesson, Cardinal Health, and AmerisourceBergen) range from 0.2% to 1.5% and the most recent quarterly profit margins are between 1.03% and 1.37%.

30. All else equal, Defendants' high prices and profit margins should have enticed rival distributors to enter or expand, which they could accomplish by offering lower prices and earning lower margins. Though an entrant would have to overcome entry barriers, they could reasonably expect to succeed in the long run by undercutting Defendants' distribution offering—paying manufacturers more for their products, charging dentistry practices less for those products, and still making a reasonable profit. The enhanced competition should, in turn, have forced Defendants to lower their prices to competitive levels (or be forced out of the market). In fact, Defendants' high prices and profit margins did entice new distributors to expand their market presence—though their efforts were stymied by Defendants' anticompetitive conduct.

31. In order to successfully enter or expand, a rival distributor must be able to: (a) offer a comprehensive line of dental supplies and equipment encompassing a wide range of products from the hundreds of dental manufacturers; (b) be able to purchase products in sufficient quantities to avail themselves of economies of scales (or position themselves to be able to purchase in such quantities in the not-so-distant future); and (c) efficiently reach a sufficient number of dentistry practices and manufacturers to achieve (a) and (b).

32. One mechanism to efficiently reach dentistry practices and manufacturers is to participate in state dental associations—voluntary associations of dentists—which possess an important ability to connect distributors with customers and suppliers. These associations can foster competition by endorsing new distributors or distribution platforms and providing them efficient access to other market participants, but as equally as they serve a gateway function for new competitors they are also an impasse at which incumbents like Defendants can block the entry of

lower-priced rival distributors.

33. In October 2013, a new distributor with a wide-ranging product offering comprised of over 50,000 distinct dental supplies and equipment—SourceOne—created a dental supplies distribution platform in partnership with the Texas Dental Association (“TDA”). SourceOne’s existing e-commerce platform, which operated nationwide, was already a lower-priced distribution option vis-à-vis those of Defendants. But its new sales platform, “TDA Perks Supplies,” offered dentistry practices the opportunity to avail themselves of even lower distribution prices, on average 30 percent below those of Defendants. The platform was an immediate success and quickly positioned itself for nationwide expansion. Rivals besides SourceOne, drawn to the platform’s initial success, began planning efforts with other state dental associations to implement similar programs.

34. Threatened with an attractive national competitor that would have forced Defendants to lower their prices or fall by the wayside, and fearing erosion of their sizeable profit margins, Defendants’ reaction was swift, fierce, and coordinated—beginning in October 2013, continuing until at least April 2015, and involving three distinct anticompetitive prongs.

35. *First*, Defendants, in concert, threatened manufacturers: should you continue to, or choose in the future to, sell your products through SourceOne or other rival distributors, we will refuse to sell or refuse to actively promote your products through our distribution channels. As Defendants collectively account for nearly 90% of the distribution market, and the overwhelming majority of dentistry practices buy through distribution to avoid the inefficiencies of buying directly from manufacturers, the loss of Defendants as a viable distribution channel presented a substantial financial hardship for manufacturers; accordingly, many manufacturers were and are beholden to Defendants and the threats were and continue to be successful in coercing

manufacturers to abandon or forgo business relationships with SourceOne. .

36. That manufacturers were yielding to credible threats from Defendants is further evidenced by *which* manufacturers ceased doing business with SourceOne. Some manufacturers with which SourceOne deals do not sell substantial volumes through Defendants; these manufacturers remained affiliated with SourceOne at all times.

37. Comparatively, those that did substantial business with Defendants caved to the threats. Many of these same manufacturers represented substantial portions of SourceOne's business. In fact, SourceOne abruptly lost access to dozens of product lines, including many of SourceOne's most important and highest-selling items. By April 2014, SourceOne had lost access to at least 75% of its top selling products, crippling its ability to compete with Defendants. One of SourceOne's product sources, an intermediary distributor called DDS Dental Supplies, told SourceOne that it would no longer supply SourceOne because of pressure applied on manufacturers by the Defendants. Similarly, DMG America, a manufacturer of dental restoration products, told DDS Dental Supplies that it would no longer allow its products to be supplied to SourceOne because of Defendants' threats. Other manufacturers that abruptly stopped allowing their products to be supplied to or sold through SourceOne include Sultan Healthcare, Danaher, Heraeus Kulzer, Ivoclar Vivadent, Quala, and Septodont. *None* of these manufacturers or intermediary distributors had ever voiced any concerns with SourceOne until after the 2013 announcement of SourceOne's innovative new distribution platform, and the decision to stop selling to SourceOne was contrary to their own economic interests, as they forfeited the significant future revenues that would have earned by continuing to sell to SourceOne.

38. When SourceOne sought replacement suppliers, candidates including DHP Dental were deterred from doing business with SourceOne as a result of Defendants' boycotting efforts.

39. *Second*, Defendants, in concert, boycotted the annual meetings and trade shows of state dental associations that were partnering or doing business with SourceOne, and threatened to boycott those that were considering doing business with SourceOne and other competitors.

Defendants also pressured manufacturers and other distributors to join the boycott.

40. Traditionally, Defendants have regularly sent sales representatives to attend and participate in these meetings and trade shows, and state dental associations depend on the revenues generated by the participation of major distributors like Defendants at these events. In March of 2014, a Patterson representative met privately with TDA representatives and demanded that TDA end its relationship with SourceOne, or Patterson would withdraw from TDA's annual trade show and refuse to advertise in TDA's publications. In April of 2014, a Henry Schein representative privately delivered an identical message. These threatened boycotts deterred other state dental associations that had expressed interest in partnering with SourceOne from doing so, including, *inter alia*, the Colorado Dental Association and the California Dental Association. In particular, the Colorado Dental Association reported to SourceOne that it was concerned with Defendants pulling their support of the organization should it associate with SourceOne.

41. When state associations refused Defendants' demands, Defendants in fact carried through on their threats to boycott annual trade shows. Defendants refused to attend trade shows organized by the TDA in 2014 and the Arizona Dental Association ("AZDA") in 2015—in turn forfeiting substantial deposits advanced to the associations—while a threatened boycott of the Louisiana Dental Association ("LDA")'s 2015 annual trade show was avoided only when the LDA abandoned its plans to associate with SourceOne.

42. Although Defendants were the only distributors to not attend the event, dozens of dental supplies and equipment manufacturers also refused to attend TDA's 2014 trade show pursuant to

Defendants' coercive demands; these manufacturers communicated to TDA that their decision to pull out of the event was a result of pressure applied by Patterson and Henry Schein. TDA suffered financial hardship and its event was less profitable as a result of Defendants' boycott.

43. Defendants subsequently learned AZDA planned on establishing a relationship with SourceOne, albeit only after substantial delays caused by Defendants' coercive activity, and eventually followed through on their threats to boycott AZDA's annual trade show. As with TDA's annual trade show, Defendants were again the only distributors to not attend the event. Since the boycott, AZDA has not actively promoted SourceOne to its membership.

44. The LDA, fearful of Defendants' wrath, specifically attempted to disguise their relationship with SourceOne, planning to announce it only after their annual trade show. Unfortunately, Defendants learned of the planned relationship in advance of the event despite the LDA's efforts and again threatened a boycott. In light of Defendants' recent boycotts of TDA's and AZDA's events, LDA yielded to the threats and abandoned its endorsement of SourceOne.

45. In contrast, the Nevada Dental Association, which has no annual trade show for Defendants to boycott and so was largely immune from Defendants' threats, did follow through with a planned partnership with SourceOne.

46. *Third*, Defendants, in concert, agreed to boycott dentists that purchased supplies from SourceOne by withholding service and repair for installed equipment at those dental practices, or to provide service and repair at higher prices or with significant delays. Dentists depend on this equipment to treat their patients and the threatened loss of service not only jeopardizes the dentistry practice's business, but the quality and efficacy of the treatments their patients receive.

47. Defendants, upon information and belief, have also misrepresented to dentists the nature and quality of dental supplies and equipment sold through SourceOne, misrepresenting them as

expired, counterfeit, altered, unauthorized, or otherwise unfit for their purpose.

48. All three prongs detailed above were effectuated by Defendants in unison, pursuant to an agreed upon anticompetitive response to SourceOne. Defendants facilitated their conspiratorial conduct through in person meetings at trade shows, through business and personal email, and through business and personal cell phone calls and text messages. Each Defendant's employees, many having previously worked for another Defendant, had close relationships through social and business gatherings and shared a common motive and opportunity to exclude SourceOne and similar competitors from the market. They acted on that motive.

49. There is no justification for these boycotting activities absent an anticompetitive aim. In particular, Defendants' forfeited substantial deposits at state dental association conferences abruptly and in unison. There is no purpose for such boycotting activity absent an anticompetitive one. **As Benco's Managing Director Rick Cohen publicly stated with regard to the importance of such trade shows: "not attending trade shows is not an option for us."** Yet, in response to state dental association's endorsement of SourceOne, that is precisely what Defendants did—exercising a self-described non-viable option *without hesitation*.

50. Further, these activities contravene the unilateral economic self-interest of each Defendant. Although each Defendant's boycotting activity would cause anticompetitive harm to the market (commensurate with the portion of the market foreclosed to rivals), a Defendant acting alone would risk causing such harm at the expense of losing market share and profits to non-participants in the conspiracy. These non-participants could still participate in boycotted trade shows, service boycotted customers, and purchase from boycotted manufacturers. Accordingly, a Defendant's boycotting activities makes no economic sense unless it had assurances from the other Defendants that they were doing so collectively. Put another way,

while Defendants could cause anticompetitive harm by deciding (irrationally) to unilaterally boycott SourceOne, the probable and indeed most plausible explanation is that they agreed to do so in concert to guard against the negative consequences of doing so alone.

51. As a result of this unlawful conduct, all direct purchasers of dental equipment and supplies from Defendants have paid higher prices than those that would prevail in an undistorted market. Defendants' conduct has impaired rivals, such as SourceOne, that offered superior distribution platforms at notably lower prices which would have, absent the conduct, disciplined Defendants' pricing power and caused prices to drop precipitously as more and more manufacturers, dental associations, and customers affiliated with Defendants' lower-cost rivals.

PRIOR PRIVATE AND GOVERNMENT ACTION AGAINST DEFENDANTS

52. Defendants' preference for avoiding price competition through unlawful and anticompetitive activity is no recent development.

53. The first related lawsuit was lodged by Archer and White Sales, Inc., a rival dental supplies and equipment distributor, in August of 2012 against Henry Schein, certain unnamed conspirators (alleged to be horizontal distributor competitors of Henry Schein), and several dental manufacturers. The antitrust claims in that suit, which are currently proceeding through private arbitration, were that:

- a. Archer and White Sales, Inc. was a lower-cost, higher quality distributor;
- b. Henry Schein, with the aim of impairing this competitive threat and excluding it from the market, acted in concert with others to (i) have Archer and White Sales, Inc.'s membership in a crucial trade organization, the American Dental Cooperative, revoked and (ii) threaten to boycott key manufacturers unless they refuse to sell their products through Archer and White Sales, Inc.;

- c. Henry Schein acted in concert with its horizontal competitors to allocate customers to one another and engage in bid-rigging;
 - d. Henry Schein acted in concert with its horizontal competitors to charge artificially inflated prices; and
 - e. Henry Schein and others told Archer and White Sales, Inc. that they would agree to end their boycotting activity if Archer and White Sales, Inc. would agree to join their cartel and raise their dental supplies and equipment distribution prices, to which Archer and White Sales, Inc. refused.
54. Defendants' conduct has also spawned government investigations.
55. The first government investigation was initiated in 2014, when the Texas Attorney General initiated an investigation of Defendants for violation of Texas's antitrust statutes, issuing Civil Investigative Demands to Defendants. This investigation resulted in an April 9, 2015 complaint against Benco and entry of a consent judgment against Benco on the same day.
56. The Texas Attorney General's complaint alleges, *inter alia*, that:

The traditional dental supply distributors enjoy close relationships with one another, both personal and professionally. Many sales representatives, and even higher level employees, have previous employment relationships with other distributors. The employees interact regularly in person, at various social gatherings, and industry trade meetings, and remotely, through company email, personal email, personal cell phone calls, company cell phone calls, and text messaging. These close contacts provide the opportunity for the sharing of competitively-sensitive information among the various distributors and manufacturers.

...

Benco and its competitor distributors understood that [a lower-cost rival], with its potentially disruptive new business model, directly competed with them, and perceived a competitive threat based on the lower prices offered by [the lower-cost rival] for many of the same goods offered by Benco and its competitor distributors.

Building on the historic culture of cooperation and communication, Benco and its competitor distributors engaged in ongoing communication over several months

about [the lower-cost rival]. They shared information about market players' reactions to the new firm's entry, they collectively developed a response, and they provided reassurances to market participants about the collective response.

The collective response to this competitive threat by [the lower-cost rival] was two-fold. Benco and its competitor distributors (1) agreed to break with their traditional pattern of attendance and boycott the annual TDA meeting in May 2014 because they perceived that TDA had positioned itself as a competitor to the traditional distributors; and (2) agreed to pressure other distributors and manufacturers to discontinue supplying [the lower cost rival] and/or end any relationships with manufacturers or distributors that ultimately supplied [the lower-cost rival] in order to stifle the competition provided by the new [] offering.

...

Pursuant to this agreement, Benco and its competitor distributors contacted other distributors and manufacturers to pressure those entities to discontinue any relationships that ultimately supplied [the lower-cost rival].

As a result of this pressure, other distributors and manufacturers discontinued such relationships, causing [the lower-cost rival] to lose access to products.

57. The consent judgment requires Benco to reimburse the Texas Attorney General for the cost of its investigation—\$300,000.00—refrain from engaging in further unlawful conduct, and cooperate with the Texas Attorney General's ongoing investigation of the remaining Defendants.

58. Also in 2014, the Arizona Attorney General initiated an investigation of Benco and other unnamed dental supplies and equipment distributors for violation of Arizona's antitrust statutes. Benco produced documents and materials to the Arizona Attorney General pursuant to Civil Investigative Demands issued in October 2014. The investigation remains pending.

59. Following the Arizona and Texas Attorney General investigations, the Federal Trade Commission opened its own investigation into Benco and other unnamed dental supplies and equipment distributors. The investigation remains pending.

60. In September 2015, SourceOne filed its own suit in this District alleging violations of federal and state competition laws arising from the conduct alleged herein. SourceOne contends

that as a result of the Defendants' conduct, "thousands of dentists, and scores of state dental associations, dental supplies and equipment manufacturers, and dental supplies and equipment distributors stopped dealing with SourceOne, or were deterred from dealing with SourceOne."

61. Importantly, none of these government investigations or private enforcement efforts have deterred Defendants from continuing in the anticompetitive campaign alleged herein or provided any compensation to the dentists that Defendants overcharged.

CLASS ACTION ALLEGATIONS

62. Plaintiff brings this action on behalf of itself and all others similarly situated pursuant to Federal Rule of Civil Procedure 23 as a representative of a class (the "Class") defined as follows:

All persons or entities that purchased dental supplies and equipment distribution services from Henry Schein, Inc., Patterson Companies, Inc., Benco Dental Supply Company, or any combination thereof, during the period beginning January 20, 2012 until such time as the anticompetitive conduct alleged herein has ceased (the "Class Period"). Excluded from the class are Defendants, their subsidiaries, affiliate entities, and employees, and all federal or state government entities or agencies.

63. The members of the Class are so numerous that joinder is impracticable. There are tens of thousands of dentistry practices that directly purchased dental supplies and equipment distribution from Defendants during the Class Period.

64. There are numerous questions of law and fact that predominate over any issues affecting individual members of the Class, including, *inter alia*:

- a. The definition and geographic boundaries of the relevant antitrust market applicable to Plaintiff's claims, if any;
- b. Whether Defendants individually or collectively possess market power in the United States dental supplies and equipment distribution market, and the extent of such individual or collective market power;

- c. Whether Defendants agreed with one another to unlawfully boycott or threaten to boycott one or more competitors, manufacturers, trade associations, customers, or other market participants with the aim of lessening competition in the United States dental supplies and equipment distribution services market;
- d. Whether Defendants unilaterally planned to unlawfully boycott or threaten to boycott one or more competitors, manufacturers, trade associations, customers, or other market participants, with the aim of lessening competition in the United States dental supplies and equipment distribution services market;
- e. Whether Defendants, individually or in concert, actually unlawfully boycotted or threatened to boycott one or more trade associations, manufacturers, customers, or other market participants, with the aim and effect of lessening competition in the United States dental supplies and equipment distribution services market;
- f. Whether the conduct alleged herein artificially maintained, preserved, or enhanced Defendants' individual and collective market power;
- g. Whether Defendants entered into exclusionary horizontal combinations, contracts, conspiracies, or agreements that unreasonably restrained trade and impaired competition;
- h. Whether Defendants entered into exclusionary vertical combinations, contracts, conspiracies, or agreements that unreasonably restrained trade and impaired competition;
- i. Whether the conduct alleged herein constitutes a *per se* violation of the federal antitrust laws;
- j. Whether the conduct alleged herein violates the federal antitrust laws under the

rule of reason; and

- k. Whether the conduct alleged herein caused damages to the members of the Class in the form of overcharges paid for dental supplies and equipment distribution services, and the proper measure of such overcharge damages.

65. Plaintiff has no interests that are antagonistic to those of other or absent members of the Class, such that it can fairly and adequately represent and protect those Class members' interests.

66. Plaintiff has retained counsel with substantial experience litigating complex antitrust class action, including substantial experience litigating such cases within this District.

67. Class treatment of Plaintiff's federal antitrust claims is a superior method for the fair and efficient adjudication of this controversy in that, among other things, such treatment will permit a large number of similarly situated persons to prosecute common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender.

68. Plaintiff knows of no difficulty likely to be encountered in the maintenance of this action as a class action under Federal Rule of Civil Procedure 23.

CLAIMS FOR RELIEF

COUNT ONE

Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 Unlawful Horizontal Conspiracy and Group Boycott in Unreasonable Restraint of Trade (Against All Defendants)

69. Plaintiff incorporates each allegation above as if fully set forth herein.

70. Defendants are horizontal competitors that unlawfully agreed with one another and acted in concert to boycott or threaten to boycott market participants, including trade associations, manufacturers, and customers that were or considered doing business with rival distributors. Defendants' conduct constitutes an unlawful conspiracy and *per se* unlawful group boycott in

restraint of trade.

71. Defendants' conduct has caused Plaintiff and the Class antitrust injury in the form of reduced consumer choice, reduced consumer welfare, and overcharge damages flowing from Defendants' imposition of supracompetitive pricing. These injuries are quintessential antitrust injuries flowing directly from the Defendants' unlawful conduct.

72. There are no procompetitive justifications for Defendants' conduct. Even if there were such justifications, there are clear less restrictive alternatives to achieve them, and Defendants' conduct unreasonably restrains trade.

COUNT TWO

Section 3 of the Clayton Antitrust Act, 15 U.S.C. § 14

Unlawful Horizontal Conspiracy and Group Boycott in Unreasonable Restraint of Trade (Against All Defendants)

73. Plaintiff incorporates each allegation above as if fully set forth herein.

74. Defendants unlawfully agreed with one another and acted in concert to boycott or threaten to boycott market participants, including trade associations, manufacturers, and customers that were or considered doing business with rival distributors, and imposed conditions or understandings on transactions for the subject commodities that such market participants not deal with rival distributors. Defendants' conduct constitutes an unlawful conspiracy and group boycott in restraint of trade, as well as exclusive dealing arrangements that have substantially lessened competition and tend to preserve the Defendants' oligopoly through substantial foreclosure of the market to competitors, as described herein.

75. Defendants' conduct has caused Plaintiff and the Class antitrust injury in the form of reduced consumer choice, reduced consumer welfare, and overcharge damages flowing from Defendants' imposition of supracompetitive pricing. These injuries are quintessential antitrust injuries flowing directly from the Defendants' unlawful conduct.

76. There are no procompetitive justifications for Defendants' conduct. Even if there were such justifications, there are clear less restrictive alternatives to achieve them, and Defendants' conduct unreasonably restrains trade.

COUNT THREE

Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 Unlawful Vertical Restraints and Boycotting Efforts in Unreasonable Restraint of Trade (Against Henry Schein and Patterson)

77. Plaintiff incorporates each allegation above as if fully set forth herein.

78. Patterson and Henry Schein each pressured market participants, including trade associations and manufacturers, to refrain from doing business with or associating with lower-cost, higher-quality rival distributors—threatening to boycott (and in some cases actually boycotting) those that refused to agree to their requests.

79. These efforts were undertaken with the aim and effect of impairing rival distributors and insulating Henry Schein and Patterson from the effects of price competition.

80. As a result of each Defendant's individual market power, these market participants caved to the coercive threats and actions and refused to deal with each Defendant's rivals.

81. Apart from the fact of the conspiracy, the individual conduct of Henry Schein and Patterson constitute unlawful vertical restraints of trade under the rule of reason.

82. Henry Schein's and Patterson's boycotting efforts have caused Plaintiff and the Class antitrust injury in the form of reduced consumer choice, reduced consumer welfare, and overcharge damages flowing from each Defendant's imposition of supracompetitive pricing. These injuries are quintessential antitrust injuries flowing directly from each Defendant's unlawful conduct.

83. There are no procompetitive justifications for Henry Schein's and Patterson's conduct. Even if there were such justifications, there are clear less restrictive alternatives to achieve them,

and each Defendant's conduct unreasonably restrains trade.

COUNT FOUR

Section 3 of the Clayton Antitrust Act, 15 U.S.C. § 14

**Unlawful Vertical Restraints and Boycotting Efforts in Unreasonable Restraint of Trade
(Against Henry Schein and Patterson)**

84. Plaintiff incorporates each allegation above as if fully set forth herein.

85. Patterson and Henry Schein each pressured market participants, including trade associations and manufacturers, in the context of making contracts for sale, to refrain from doing business with or associating with lower-cost, higher-quality rival distributors—threatening to boycott (and in some cases actually boycotting) those that refused to agree to their requests.

86. These efforts were undertaken with the aim and effect of impairing rival distributors and insulating Henry Schein and Patterson from the effects of price competition.

87. As a result of each Defendant's individual market power, these market participants caved to the coercive threats and actions and refused to deal with each Defendant's rivals.

88. Apart from the fact of the conspiracy, the individual conduct of Henry Schein and Patterson constitute unlawful vertical restraints of trade under the rule of reason and exclusive dealing arrangements that tend to preserve Henry Schein's and Patterson's substantial individual market power through substantial foreclosure of the market to competitors, as described herein.

89. Henry Schein's and Patterson's unlawful acts have caused Plaintiff and the Class antitrust injury in the form of reduced consumer choice, reduced consumer welfare, and overcharge damages flowing from each Defendant's imposition of supracompetitive pricing. These injuries are quintessential antitrust injuries flowing directly from each Defendant's unlawful conduct.

90. There are no procompetitive justifications for Henry Schein's and Patterson's conduct. Even if there were such justifications, there are clear less restrictive alternatives to achieve them, and each Defendant's conduct unreasonably restrains trade.

REQUESTS FOR RELIEF

Plaintiff respectfully requests the following relief:

- A. That the Court determine that the claims alleged herein are suitable for class treatment and certify the proposed Class pursuant to Federal Rule of Civil Procedure 23;
- B. That the Court appoint Plaintiff as the representative of the Class;
- C. That Plaintiff's counsel be appointed as counsel for the Class;
- D. That Plaintiff and the Class recover damages equal to the difference between the dental supplies and equipment distribution prices actually paid to Defendants and the competitive prices that would have prevailed in a market undistorted by Defendants' unlawful conduct alleged herein, trebled;
- E. That Defendants be enjoined from engaging in further unlawful conduct;
- F. That Plaintiff and the Class be awarded their costs of suit, including reasonable attorneys' fees and expert fees; and
- G. That Plaintiff and the Class be awarded pre- and post-judgment interest on all sums awarded.

JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff requests a trial by jury of all claims alleged herein so triable.

Dated: February 4, 2016.

Respectfully submitted,

/s/ Scott A. Martin
Scott A. Martin
HAUSFELD LLP
33 Whitehall Street, 14th Floor
New York, NY 10004
Tele: (646) 357-1100
Fax: (212) 202-4322
Email: smartin@hausfeld.com

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Marco Cercone
Robert C. Singer
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1600 Liberty Building
424 Main Street
Buffalo, NY 14202
Tele: (716) 854-3400
Fax: (716) 332-0336
Email: bailey@ruppbaase.com
Email: cercone@ruppbaase.com
Email: singer@ruppbaase.com

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Evolution Dental Science, LLC

(b) County of Residence of First Listed Plaintiff Erie
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Scott A. Martin
Hausfeld LLP
33 Whitehall Street, 14th Floor, New York, NY 10004

DEFENDANTS

Benco Dental Supply Company; Henry Schein, Inc.; Patterson Companies, Inc.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input checked="" type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ x 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. Sections 1 and 14

Brief description of cause:

Violation of federal antitrust laws, Section 1 of the Sherman Act and Section 3 of the Clayton Act

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Brian M. Cogan

DOCKET NUMBER See attached.

DATE
02/04/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IF _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Scott A. Martin, counsel for Evolution Dental Science, LLC, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☒ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☒ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

As to Evolution Dental Science, LLC, none.

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? no
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? no
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes

☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes

(If yes, please explain)

☒ No

I certify the accuracy of all information provided above.

Signature: 

Exhibit A

List of Related Cases

Civil Action No. 15-cv-5440 (E.D.N.Y.)
Civil Action No. 16-cv-282 (E.D.N.Y.)
Civil Action No. 16-cv-345 (E.D.N.Y.)
Civil Action No. 16-cv-355 (E.D.N.Y.)
Civil Action No. 16-cv-442 (E.D.N.Y.)
Civil Action No. 16-cv-443 (E.D.N.Y.)
Civil Action No. 16-cv-479 (E.D.N.Y.)
Civil Action No. 16-cv-497 (E.D.N.Y.)
Civil Action No. 16-cv-548 (E.D.N.Y.)
Civil Action No. 16-cv-560 (E.D.N.Y.)

for the

Civil Action No.

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Eastern District of New York

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Henry Schein, Inc.
c/o Corporation Service Company
2711 Centerville Rd., Suite 400
Wilmington, DE 19808

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Scott A. Martin

Scott A. Martin
Hausfeld LLP
33 Whitehall Street, 14th Floor
New York, NY 10004

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title


Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York 

Evolution Dental Sciences, LLC on behalf of itself and all)
others similarly situated,)

Plaintiff(s)

v.)

PATTERSON COMPANIES, INC., et al.,)

Defendant(s)

Civil Action No.)
)
)
)
)
)
)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Patterson Companies, Inc. 1031 Mendota Heights Rd., Mendota Heights, MN 55120

À

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Scott A. Martin
Hausfeld LLP
33 Whitehall Street, 14th Floor
New York, NY 10004

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: