

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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:
HOWARD HESS DENTAL LABORATORIES :
INCORPORATED and PHILIP GUTTIEREZ d/b/a :
DENTURES PLUS, on behalf of themselves and all others :
similarly situated, :
:
Plaintiffs, : C.A. No. 99-255 (SLR)
:
-against- :
:
DENTSPLY INTERNATIONAL, INC., :
:
Defendant. :
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JERSEY DENTAL LABORATORIES, f/k/a :
Howard Hess Dental Laboratories Inc., and PHILIP :
GUTTIEREZ, d/b/a Dentures Plus, on Behalf of :
Themselves and All Others Similarly Situated, :
:
Plaintiffs, : C.A. No. 01-267 (SLR)
:
v. :
:
DENTSPLY INTERNATIONAL, INC., et al., :
:
Defendants. :
:
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**STIPULATION DISMISSING *JERSEY DENTAL* AND WAIVING ALL COSTS
TAXABLE IN *HESS, JERSEY DENTAL* AND/OR ANY RELATED APPEAL**

WHEREAS, on February 13, 2008, the Court entered a final judgment in *Howard Hess Dental Laboratories Inc., et al. v. Dentsply International Inc.*, Civ. No. 99-255-SLR (“*Hess*”) (D.I. 290), dismissing the complaint with prejudice; and

WHEREAS, on February 8, 2008, the Court “so ordered” the parties’ stipulation and proposed order in *Jersey Dental Laboratories, et al. v. Dentsply International Inc., et al.*, Civ. No. 01-267-SLR (“*Jersey Dental*”), which, pursuant to Fed. R. Civ. P. 54(b), amended the court’s prior memorandum opinion (D.I. 315) and order (D.I. 316), dated September 26, 2007, to make their dismissal of Counts II, III, IV and V in the Amended Complaint (D.I. 259) a final decision and final judgment by this Court, within 28 U.S.C. § 1291; and

WHEREAS, on June 15, 2010, the United States Court of Appeals for the Third Circuit issued a mandate affirming this Court’s aforementioned order in *Hess*, dated February 13, 2008, and affirming this Court’s aforementioned order in *Jersey Dental*, dated February 8, 2008; and

WHEREAS, Count I of the Amended Complaint in *Jersey Dental*, against all of the Defendants for conspiracy to restrain trade by means of vertical retail price-fixing, remains pending in this Court; therefore

It is stipulated and agreed by and between Plaintiffs and Defendants, subject to the approval of the Court:

1. That the Amended Complaint in *Jersey Dental*, including, without limitation, Count I, against all Defendants for conspiracy to restrain trade by means of vertical retail price-fixing, is dismissed in its entirety with prejudice;
2. That each and all Defendants waive any right that such Defendant or Defendants might otherwise have to costs taxable against Plaintiffs in *Hess*, *Jersey Dental* and/or any appeal from either of these cases; and
3. That every party shall bear its own costs in *Hess*, *Jersey Dental* and any appeal from either of these cases.

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SO ORDERED this _____ day of _____, 2010

United States District Judge