

*The Federal Trade Commission
Office of the Administrative Law Judge*



ORIGINAL

In the matter of:)
)
)
Benco Dental Supply Co.,)
 a corporation,)
)
Henry Schein, Inc.,)
 a corporation, and)
)
)
Patterson Companies, Inc.,)
 a corporation,)
)
)
 Respondents.)

Docket No. 9379

Judge Chappell

**RESPONDENTS' JOINT PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Dated: April 11, 2019

RECORD REFERENCES

References to the record are made using the following citation forms and abbreviations:

CX# - Complaint Counsel Exhibit

RX# - Respondent Exhibit

CXD# - Complaint Counsel Demonstrative Exhibit

RXD# - Respondent Demonstrative Exhibit

Name of Witness, Tr. xx - Trial Testimony

CX/RX# (Name of Witness, Dep. at xx) - Deposition Testimony

CX/RX # (Name of Witness, IHT at xx) - Investigational Hearing Testimony

JFFL – Respondents’ Joint Proposed Findings of Fact and Conclusions of Law

JSLF ¶ x - Joint Stipulations of Law and Fact

Complaint ¶ x - Complaint Counsel's Complaint filed February 14, 2018

Answer ¶ x - Respondent Henry Schein, Inc.’s Answer to Complaint

RRFA No. x – Respondent’s Response to Complaint Counsel’s Requests for Admission

CRFA No. x – Complaint Counsel’s Response to Respondent’s Requests for Admission

CMTD at x – Complaint Counsel’s Opposition to Patterson’s Motion to Dismiss

CC Pretrial Br. at x – Complaint Counsel’s Pretrial Brief

{ **bold** } - *In Camera* Material

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I. FINDINGS OF FACT.

A. Overview of the Dental Supplies Industry.

1. *Dental Supplies and Equipment.*

1. Dental supplies, or “consumables,” include all the supplies in a dentist’s office such as filling materials, instruments, gloves, burs, anesthetics, and the like. (Cohen, Tr. 403-04, 601; Kois Sr., Tr. 167-68). “Disposables” are products that are only used once per patient, such as gauze, saliva ejectors, and gloves. (Kois Sr., Tr. 168).

2. On average, a dentist will spend approximately [REDACTED] of the office’s annual receipts on dental supplies. (Goldsmith, Tr. 2061; Misiak, Tr. 1455; Cavaretta, Tr. 5544-45; Sullivan, Tr. 4060; RX 0435-004).

3. Dental equipment includes items that are more permanent fixtures in a dental office, like the chairs, lights, x-ray and imaging machines, lasers, compressors, vacuums, handpieces, cabinets, and the like. (Cohen, Tr. 403-04, 601; McFadden, Tr. 2751-52; Sullivan, Tr. 3869-70, 4049).

2. *Manufacturers.*

4. Manufacturers produce the dental supplies and equipment sold to dentists. Some of the largest manufacturers include Danaher, Dentsply, Sirona, and A-Dec. (CX 3285-024). The largest manufacturers make up less than 50% of the total dental supplies market. (CX 3285-024). Other manufacturers include Hu-Friedy, Kavo-Kerr, 3M, Brasseler, Procter & Gamble, Ivoclar, Ultradent, Centrix, GC America, Butler Sunstar, Premier Dental and Coltene. (CX 4045-001 (listing 31 manufacturers selling through Burkhart); Sullivan, Tr. 4261-62; Kois Jr., Tr. 367-69; Cohen, Tr. 602).

5. Some manufacturers sell directly to dentists in addition to selling through distributors. (Cohen, Tr. 602). An estimated 10 to 25 percent of dentists’ supplies are purchased directly from

manufacturers. (CX 0301 (Cohen, IHT at 47); CX 0082-008 (“The competitive landscape of the US dental business is comprised of: ... Handful of significant direct-to-dentist companies”); CX 3285-004, 008, 024; Kois Jr., Tr. 322-23 (“[W]e also have ... manufacturers that sell direct to the dental practice, so they do not go through a dental supply company.”)).

6. Some manufacturers sell exclusively through only one distributor. (Cohen, Tr. 667).

7. Some manufacturers, like Ultradent, had “a policy of not working with buying groups.” (Kois Jr., Tr. 369).

8. Other manufacturers have expressed “concerns about working with buying groups,” citing potential problems with “compliance and participation.” (Reece, Tr. 4406).

3. *Distributors.*

9. Dental distribution is highly concentrated, yet diverse. Schein, Patterson, and Benco are the only national full-service distributors, but the dental supply market is “extremely fragmented” with at least 15 regional full-service distributors, as well as non-full-service, mail-order, phone-order, and internet distributors that compete with Respondents. (CX 5033-018; CX 2742; CX 0319 (Reece, IHT at 28-29); CX 8023 (Guggenheim, Dep. at 324-25); CX 0305 (Cavaretta, IHT at 48)).

10. Approximately “75% of dental products go through distributors,” including Schein, Patterson, Benco, Burkhart, and others. (CX 3285-024).

11. “Full-service” distributor means that a distributor sells supplies, installs and services equipment, and provides training as needed for the equipment the distributor sells to dental offices. (Kois Jr., Tr. at 170; Sullivan, Tr. 3869-70).

a. *Henry Schein*

12. Schein began in 1932 as a local pharmacy in Queens, NY, and it grew as a dealer of dental products, first through the use of a mail-order catalog, and later through multiple

acquisitions and its use of field sales consultants (“FSCs”) to serve dental practitioners. (CX 5023-003). Today, Schein is a full-service distributor of dental products, technologies, equipment, and services. (CX 5023). Today, Schein sells virtually anything and everything needed by a dental office, including, but not limited to: thousands of different dental supplies; small and large dental equipment; dental technology; practice management software; and business solutions. (CX 5023; CX 5021-016).

b. Patterson

13. Patterson Dental (“Patterson”) has been in the dental business for more than 140 years. (CX 5035-002). Patterson is a full-service distributor of dental supplies and equipment, a developer and manufacturer of software, and a provider of technical services and training. (Guggenheim, Tr. 1532; CX 0314 (Guggenheim, IHT at 10); CX 8027 (Anderson, Dep. at 55)). Patterson carries more than 100,000 individual SKUs for dental products, selling consumable products like x-ray film, impression materials, and gloves, along with dental equipment like x-ray machines, dental chairs, and diagnostic equipment. (CX 5033-011, 014-15). Patterson also offers a full range of related services, such as equipment installation, maintenance and repair, dental office design, and equipment financing. (CX 5033-011).

c. Benco

14. Benco, a privately-owned full-service distributor headquartered in Pittston, Pennsylvania, was founded in 1924. (RX 1099-003; Cohen, Tr. 400, 406, 618-19). Benco sells all of the supplies, equipment and services that are essential to running a dental practice. (Cohen, Tr. 600). Benco has over 50 showrooms and 5 distribution centers located across the United States. (Cohen, Tr. 408). Benco’s transactional sales data reveals that, in 2016, Benco sold over [REDACTED] distinct dental products. (RX 1140-010). Benco also offers services that include dental office

design, practice consulting, financing and real estate planning, wealth management, equipment repairs, and computer hardware, software, and systems for dentists. (Cohen, Tr. 405-06, 606-07).

d. Burkhart

15. Burkhart Dental Supply (“Burkhart”) is a regional full-service distributor of dental merchandise, dental equipment and technical service. (Reece, Tr. 4357; Sullivan, Tr. 3936). Burkhart has been in the dental supply business for 130 years and is headquartered in Tacoma, Washington. (Reece, Tr. 4357). Burkhart does not cover the entire United States and instead only operates west of the Mississippi, with a few exceptions. (Reece, Tr. 4365 (“[I]t is west of the Mississippi.”))

e. Atlanta Dental

16. Atlanta Dental Supply (“Atlanta Dental”) is a regional, full-service distributor of dental products serving parts of the Southeastern United States. (Goldsmith, Tr. 1946). It has ten offices throughout Georgia, North Carolina, South Carolina, Alabama and Florida. (CX 7100-040, -043).

f. Nashville Dental

17. Nashville Dental is a regional, full-service distributor of dental products that serves Tennessee, Kentucky, Alabama, and West Virginia. (Ryan, Tr. 1046).

g. Pearson Dental Supplies

18. Pearson Dental Supplies (“Pearson”) is a distributor of dental supplies and equipment with headquarters in Sylmar, California. (CX 7100-043). It carries over 130,000 items produced by over 200 manufacturers, and also sells Pearson-branded merchandise. (CX 7100-043). It serves California, Arizona, Texas, Nevada, Washington and Hawaii. (CX 7100-044).

h. Midway Dental Supply

19. Midway Dental Supply is a dental distributor based in Indiana. (Reece, Tr. 4455; RX 1140-023; CX 7100-045).

i. Midwest Dental Equipment & Supply

20. Midwest Dental Equipment & Supply is a dental distributor based in Texas. (Reece, Tr. 4455; RX 1140-023; CX 7100-045).

j. Other Full-Service Distributors

21. The distribution channel includes many other regional full-service distributors of dental supplies, dental equipment and technical service. Patterson witnesses included Atlanta Dental Supply, Nashville Dental Supply, Pearson Dental, Goetze, and Johnson & Lund among Patterson's competitors. (Guggenheim, Tr. 1735-36; Misiak, Tr. 1295).

22. Dr. Johnson listed the locations and product lines of a partial list of 46 regional distributors, and Dr. Marshall indicated office locations for 26 regional distributors. (RX 1140-023; CX 7100-046). Regional distributors only cover certain areas of the United States. (Goldsmith, Tr. 2005; Rogan, Tr. 3437). For example, both Nashville Dental and Atlanta Dental operate in the Southeast while Burkhart primarily operates in the Pacific Northwest. (Maurer, Tr. 4980).

23. Complaint Counsel's expert, Dr. Marshall, analyzed full-service distributor shares by state. His analysis shows that full-service distributors other than Schein, Patterson, Benco, and Burkhart are active in every state and account for a total of 13% of full-service distribution nationwide. (CX 7100-057). The identity of the active distributors varies from state to state, leading to differing alternate sources of supply by region. (RX 2834-014). In the Southeast region of the United States, for example, there are five or six full-service dental distributors as well as internet and mail-order companies. (McFadden, Tr. 2749).

4. Non-Full-Service Distributors

24. The distribution channel also includes, among others, mail-order distributors, telesales distributors, and internet-based distributors. (Goldsmith, Tr. 1945-47; Sullivan, Tr. 4171).

25. Burkhart's Jeffrey Reece included among its competitors not just Schein, Patterson, and Benco, and other full-service distributors, but also "Darby, Amazon, Scott's Dental, ... they are all over the place." (Reece, Tr. 4455).

26. Darby Dental Supply ("Darby") is a national internet, mail-order and telesales distributor of dental products. (Goldsmith, Tr. 2161-62; Sullivan, Tr. 4171). Darby distributes over 40,000 dental products; in 2016, it had over [REDACTED] in sales. (CX 7100-051-52). Review of sales data reveals that, in 2016, Darby supplied over [REDACTED] of all purchases of dental supplies made by Smile Source members. (RX 2834-058). Four of the seven individual dentists named as plaintiffs in the class litigation purchased dental supplies from Darby. (RX 2834-020-21). Dr. Mason purchased approximately 85-90% of his dental supplies from Darby. (Mason, Tr. 2405-06).

27. Safco Dental Supply is an internet and mail-order dental distributor; two of the seven individual dentists named as plaintiffs in the class litigation purchased dental supplies from Safco. (RX 2834-020-21).

28. Scott's Dental is an internet and mail-order dental distributor. (Reece, Tr. 4455). Three of the seven individual dentists named as plaintiffs in the class litigation purchased dental supplies from Scott's Dental. (RX 2834-020-21).

29. Net32 is an internet and mail-order dental distributor; three of the seven individual dentists named as plaintiffs in the class litigation purchased dental supplies from Net32. (RX 2834-020-21).

30. In addition to specialized dental distributors, general internet distributors and retailers such as Amazon and eBay sell dental products. Four of the seven individual dentists named as

plaintiffs in the class litigation purchased dental supplies from eBay, and two of the seven purchased dental supplies from Amazon. (RX 2834-020-21).

31. Mail-order distributors, such as Darby, are not full-service and do not provide any value-added services. (Mason, Tr. 2406; Goldsmith, Tr. 2161-62; McFadden, Tr. 2749; Sullivan, Tr. 4171; CX 8031 (Steck, Dep. at 60-61)). This means that distributors such as Darby do not employ field sales representatives to visit offices and therefore do not maintain the substantial cost of carrying a field sales force. (Goldsmith, Tr. 2161-62). This allows Darby to be a low-cost option. (Goldsmith, Tr. 2162).

5. *Dentists.*

a. Independent Dentists.

32. Though distributors like Schein partner with buying groups, the “ultimate customer” is “the dentist, not the group.” (Sullivan, Tr. 3935; Cohen, Tr. 680).

33. In 2017, there were approximately 200,000 dentists practicing in the United States, most of whom worked as solo practitioners or in small group practices. (RX 2820).

34. Independent dentists are also referred to as “private practice” dentists. (Rogan, Tr. 3427; Sullivan, Tr. 3904).

35. Even the largest dental distributors may not have all of the products a single dentist wants. (*See, e.g.*, Kois Sr., Tr. 175-76; *see also* RX 2821-004 (the “average dental practitioner purchases supplies from more than one supplier”)).

36. Independent dentists value the quality of their supplies, so much so that Dr. Kois testified that “the price isn’t the factor” when he purchases “specific products ... from direct companies...” (Kois Sr., Tr. 176).

37. Independent dentists also value their relationships with the sales representatives that call on their practices. (Sullivan, Tr. 4086 (“Q. Based on your 30 years’ experience, do you believe

customers value their relationship with their sales representatives more than they do with a discount on supplies? A. Absolutely.”); Cohen, Tr. 406 (“Q. And your customers really value the sales reps, right? A. I believe they do. Yes.”); Guggenheim, Tr. 1533-34 (Territory sales reps “main focus is to, you know, maintain the relationships, help the practice grow and identify ways to improve their businesses....”).

38. Dentists’ preferences make it hard to change a given dentist’s purchasing behavior. (CX 8008 (Kois Jr., Dep. at 134 (“Q. ... there’s no reason for you to add Patterson as a vendor? A. I think more than that, that added value would have to outweigh the effort it would take to explain to our members that we’ve been telling for the last three and a half, four years that go to Burkhart to go to a different supply company. That’s not an easy ask.”)); Meadows, Tr. 2506-07 (“dentists are very hard to win or they’re hard to change their behaviors”); Reece, Tr. 4406 (independent dentists “tend[] to like” and are entrenched in what they are used to using); *see also* Meadows, Tr. 2508-10 (explaining the difficulties and hurdles that dentists face when switching distributors, from changing ordering software to FSCs)).

b. DSOs.

39. In the late 1990s, dentists began consolidating multiple offices into group practices managed by common ownership. (CX 3285-029; RX 2794). This consolidation resulted in a business model: Dental Support (or Service) Organizations (“DSOs”). (CX 8005 (Muller, Dep. at 103-04); Cohen, Tr. 804).

40. DSOs provide non-clinical, centralized support services in administration, business, marketing, procurement, and/or management to their member dental practices in exchange for a fee. (Puckett Tr. 2203; McFadden 2846-47; *see also* RX 0544-043-47).

41. DSOs offer scaled platforms for “all of the non-clinical aspects of running a dental office,” including: accounting, marketing, human resources, information technology, insurance reimbursement, patient payment collection, banking, payroll, operations, and procurement (including purchasing, supply, returns, and vendor management). (CX 0315 (McFadden, IHT at 15); *see also* Puckett Tr. 2203; McFadden Tr. 2846-47).

42. DSOs handle all procurement through a single administrative and logistical point of contact to select products and quantities, negotiate pricing, and manage delivery, returns, and payments for numerous offices. (Puckett, Tr. 2205-06; Ryan, Tr. 1166; CX 8033 (Cavaretta, Dep. at 42-45); CX 8010 (Titus, Dep. at 26-27, 255-56); CX 8005 (Muller, Dep. at 94-95)).

43. DSOs are able to commit (either contractually or in practice) large volumes of purchases for all of their owned, managed, or affiliated practices. (Sullivan, Tr. 3902-03; Meadows, Tr. 2491-92 (“[I]f we sign a contract with a DSO, that DSO is entering into a contractual agreement that, according to the contract, would guarantee us the volume and that we would be the primary vendor in each one of that DSO’s locations.”), 2523-24; Puckett, Tr. 2201-06; Ryan, Tr. 1166; Cohen, Tr. 412-413; Foley, Tr. 4567-68; Guggenheim, Tr. 1767-68 (“when a DSO makes a commitment to buy from you, there's a contractual agreement that's generated, and they will represent their volume and what they're intending to buy from you, and largely that's directionally accurate.”); CX 6599; RX 2247; RX 2295).

44. DSO contracts often include requirements that the DSO’s members purchase 70% or more of its supplies from a particular distributor. (CX 0309 (Muller, Dep. at 63); Sullivan Tr. 3903; Meadows, Tr. 2649; RX 2247-006 (Dental One commits to “purchase 90% of its professional merchandise ... from SCHEIN on a quarterly basis.”); RX 2295 (MB2 Contract listing an [REDACTED] commitment)).

45. Once DSOs contract with a particular distributor, “[the] locations are instructed not to do business with” other distributors. (Meadows, Tr. 2493-94). This means that if a distributor loses out on a DSO contract, that distributor also loses out on the opportunity to supply all of the DSOs member offices. (Meadows Tr. 2493 (“Q. So even if you try to offer a large discount to a DSO, but you don’t have the contract, so you’re offering a big discount to the individual office, but you don’t have the DSO contract, can you get that customer? A. No.”)).

46. DSOs typically do not need the hands-on education and consulting services offered by field sales representatives, which further lowers a distributor’s costs in serving them and, in turn, allows a distributor to offer DSOs formularies with reduced prices. (Meadows, Tr. 2523-24; CX 8016 (Meadows, Dep. at 271-72); CX 0309 (Muller, IHT at 59-60, 63)).

47. DSOs’ centralized purchasing system not only reduces a distributor’s costs of servicing the customer, but also facilitates large-scale purchasing through one point of contact, thereby reducing pricing. (CX 8033 (Cavaretta, Dep. at 42-45); CX 8010 (Titus, Dep. at 26, 255-56; CX 8005 (Muller, Dep. at 94-95)).

48. Large-scale consolidated orders through one point of contact also reduce shipping costs. (J. Johnson, Tr. 4832).

49. Because DSOs can commit to purchasing from a limited product formulary at set volumes, distributors like the Respondents can negotiate better pricing from manufacturers, passing on the savings to these customers. (CX 0309 (Muller, IHT at 59-60); Meadows, Tr. 2491-92; Foley, Tr. 4687-88; *see also* Ryan, Tr. 1166 (explaining that DSOs can say “what we spend ... will be delivered,” which makes it easy to “base pricing” on such volume commitments)).

c. MSOs.

50. MSOs, or “Managed Service Organizations,” “provide a platform with a suite of nonclinical business services that they offer to private practice dentists...” (Titus, Tr. 5327; Sullivan, Tr. 3902). MSOs helps manage its member’s offices and the members pay the MSO for the management-type services it provides. (CX 8025 (Sullivan, Dep. at 234); CX 8033 (Cavaretta, Dep. at 50-51)). Some MSOs provide management services in exchange for equity in a dental practice. (CX 8033 (Cavaretta, Dep. at 50-51)).

d. Community Health Centers and Other Institutional Customers.

51. CHCs or “Community Health Centers” are “nonprofit health centers that offer medical care to the indigent,” and are “usually federally funded.” (Steck, Tr. 3690).

52. CHCs have also formed buying groups. (Ryan, Tr. 1136-37 (describing CHC buying groups and noting that “there’s nothing that ties them together ... each one is independent of the others.”)).

53. Schein has partnered with many of these CHC buying groups. (*See, e.g.*, RX 2309; RX 2306; RX 2107; RX 2287; RX 2527; RX 2269; RX 2271).

54. Schein’s competitors knew Schein did business with CHC buying groups. (Ryan, Tr. 1134-35).

e. Buying Groups.

55. Complaint Counsel defines buying groups as “organizations of independent dentists that seek to aggregate and leverage the collective purchasing power of separately-owned and separately-managed dental practices in exchange for lower prices on dental products.” (Complaint ¶ 3).

56. Many buying groups are no more than “loosely held-together groups of dentists....” (Rogan, Tr. 3432).

57. There is no one-size-fits-all definition of buying groups, however. As Jeffrey Reece, Vice President at Burkhart, testified, “a buying group is not a buying group is not a buying group. Each one kind of comes to us in a different way....” (Reece, Tr. 4367). Patterson’s Neal McFadden likewise explained, “buying groups were not all created equally. And they were like a jar of jellybeans. They each tasted differently.” (CX 8004 (McFadden, Dep. at 119–20)).

58. Reece testified that some buying groups are so loosely held together that “[i]t just seems like it’s a couple of guys that over cocktails decided they wanted to save money on supplies, so they formed a group of buddies.” (CX 0319 (Reece, IHT at 76)).

59. When a buying group is involved in a relationship with a distributor, the individual dentist member still places the order directly with the distributor (if the member chooses to order from the distributor). (Reece, Tr. 4458-59).

60. Unlike DSOs, buying groups are not centralized purchasers or under common ownership, so they generally cannot make volume purchasing commitments on behalf of their members or control their members’ purchasing. (Misiak, Tr. 1469; Rogan, Tr. 3432-34, 3541-42; Ryan, Tr. 1166 (“with ownership structure there can be compliance”); Meadows, Tr. 2491-92 (while a DSO “would guarantee us the volume,” but with buying groups, it’s “rolling the dice”); CX 8013 (Fruehauf, Dep. at 63-65); CX 8023 (Guggenheim, Dep. at 270-72)). With a buying group, purchase orders are placed by each individual member, and distributors must ship to each individual member. (Cavaretta, Tr. 5568-69; Cohen, Tr. 861; Ryan, Tr. 1034-36; *see also* RX 2928 (member “[p]urchases are made directly from the vendor”); Kois Sr., Tr. 248-49; Kois Jr., Tr. 312-13; Maurer, Tr. 4964-65).

61. Many buying groups use the fact that their members could purchase from whomever they wanted as a selling point. (Goldsmith, Tr. 2054; CX 1034 (Kois: “You can purchase as much or as little as you like from any vendor listed. There are no exclusivity agreements and no obligations.”); RX 2929 (Mari’s List: “You can pick and choose what you change. You have total control over whom you choose to buy from.”)).

62. Most buying groups do not offer the added services provided by DSOs either, such as marketing and education. (Rogan, Tr. 3432-33).

63. Throughout trial, Complaint Counsel elicited testimony that the terms “GPO” and “buying group” were often used interchangeably in the dental industry. (Cavaretta, Tr. 5645; Guggenheim, Tr. 1566; Meadows, Tr. 2426; Reece, Tr. 4367-68; Sullivan, Tr. 3901; Rogan, Tr. 3429).

64. During its investigation, Complaint Counsel defined GPOs more broadly to also include “any entity that the [Respondent] referred to or defined as a dental [GPO], dental buying cooperative, [or] dental buying group ... in the ordinary course of business.” (RX 2810-009).

B. Complaint Counsel’s Conspiracy Claim.

65. On February 12, 2018, the Commission issued its Complaint against Respondents Benco, Patterson, and Schein. (*See* Complaint).

66. Complaint Counsel has not moved to amend the Complaint to conform the allegations to the evidence.

1. *The Alleged Conspiracy.*

67. Complaint Counsel alleges that “Benco, Schein, and Patterson conspired to refuse to offer discounted prices or otherwise negotiate with buying groups seeking to obtain supply agreements on behalf of groups of solo practitioners or small group dental practices...” (Complaint ¶ 1; *see also* Complaint ¶ 8 (“Benco, Schein, and Patterson executives agreed not to

provide discounts to or otherwise contract with Buying Groups composed of independent dentists....”); RXD 0005).

68. Complaint Counsel does not allege a conspiracy specific to any particular buying group or groups. (*See* Kahn, Tr. 17 (“JUDGE CHAPPELL: And are you saying that respondents, all three, are refusing to deal with all so-called buying groups? MS. KAHN: We are alleging ... that respondents agreed with each other that none of them would do business with buying groups or discount to buying groups.”)).

69. Complaint Counsel has not introduced sufficient evidence from which a fact-finder can determine the start or end dates of the alleged conspiracy. Throughout trial, Complaint Counsel failed to identify specific dates, or to identify which acts were during the alleged conspiracy period and which occurred outside of the alleged conspiracy period.

2. The Alleged Start of the Conspiracy.

70. In their Complaint, Complaint Counsel alleged that “Benco and Schein entered into an agreement to refuse to provide discounts to or compete for Buying Groups no later than July 2012.” (Complaint ¶ 32).

71. To support this July 2012 date, Complaint Counsel cited an internal Benco document, in which Mr. Cohen asked his report to send an email “so that [he] can print & send to Tim [Sullivan] with a note.” (Complaint ¶ 35 (quoting CX 0018)).

72. The Complaint does not cite any specific communication between Mr. Sullivan and Mr. Cohen prior to July 2012, but refers generically to “frequent inter-firm communications between [them] prior to July 2012.” (Complaint ¶ 33).

73. Complaint Counsel also did not cite to any specific *conduct* prior to July 2012 in their Complaint that could support an inference that the alleged conspiracy began prior to July 2012.

74. At trial, Complaint Counsel asserted that the conspiracy between Benco and Schein began at some unspecified time in 2011. (Kahn, Tr. 19 (“We allege that Schein and Benco entered into the conspiracy in the year 2011, and that’s the start of the conspiracy between Schein and Benco.”); *see also* Kahn, Tr. 33).

75. Complaint Counsel failed to identify any specific communication between Mr. Sullivan and Mr. Cohen in 2011. Instead, Complaint Counsel asserts that “[b]y [l]ate 2011, Schein ‘[n]o [l]onger [p]articipate[d] [i]n Buying Groups,’” quoting an e-mail from Schein’s Randy Foley to a buying group. (RXD 0031 (citing CX 2062)). Complaint Counsel does not cite any communications between Schein and Benco prior to this email relating to buying groups.

76. Complaint Counsel then claims that “Benco [e]nforced [its] [a]greement [w]ith Schein in 2012,” pointing to a telephone conversation between Mr. Cohen and Mr. Sullivan on January 13, 2012. (RXD 0101 (citing CX 0018)).

77. Complaint Counsel does not cite any other communications or any conduct to support its allegation that an agreement was reached and the alleged conspiracy began in 2011.

3. *The Alleged Joinder of Patterson.*

78. Complaint Counsel alleges that “Patterson joined the agreement to refuse to provide discounts to or otherwise compete for Buying Groups no later than February 2013.” (Complaint ¶ 36; *see also* Kahn, Tr. 19 (“Patterson joined the conspiracy in early 2013.”); RX 2958-010 (“Patterson joined the agreement in February 2013.”)).

4. *The Alleged End of the Conspiracy.*

79. *The Alleged End of the Conspiracy.* In their Complaint, Complaint Counsel claimed that the alleged “agreement continued at least into 2015.” (Complaint ¶¶ 10, 61).

80. The Complaint does not cite any inter-firm communications in 2015 to support this allegation, but does cite to two internal Benco documents, one from May 2015 and the other from

June 2015, indicating that Benco’s head of Special Markets, Pat Ryan, believed that Patterson and Schein do not offer discounts to buying groups. (Complaint ¶¶ 63-64 (citing CX 0012-001 and CX 1185-002)).

81. At trial, Complaint Counsel clarified that the conspiracy ended “in April [] 2015 ... [when] Benco entered into a settlement agreement with the Texas Attorney General” which made the conspiracy “difficult, if not impossible, to maintain,” and “[R]espondents started dealing with buying groups after that point.” (Kahn, Tr. 19; *see also* Kahn, Tr. 54 (“for all intents and purposes, the conspiracy was impossible to maintain much longer past that point” after April 2015); CC Pretrial Br. at 12 n.66).¹

C. Every Fact Witness Disclaimed the Existence of the Alleged Agreement.

1. *Every Fact Witness Either Outright Denied That Schein, Patterson, and Benco Participated in an Agreement Or Denied Having Knowledge of Any Such Agreement.*

82. Complaint Counsel listed the following individuals in a sworn interrogatory as being “person[s] hav[ing] knowledge” of the alleged conspiracy: Chuck (Charles) Cohen, Rick Cohen, Paul Jackson, Michael McElaney, Patrick Ryan, Timothy Sullivan, Kathleen Titus, Andrea Hight, Brian Brady, Hal Muller, Randall Foley, Debbie Foster, James Breslawski, Dave Steck, Michael Porro, Jake Meadows, Joseph Cavaretta, Scott Anderson, Paul Guggenheim, Dr. Brenton Mason, Neal McFadden, Dave Misiak, Devon Nease, Tim Rogan, Dr. Joseph Baytosh, Francis (“Frank”) J. Capaldo, Dr. Andrew Goldsmith, John C. Kois, Jr., Dr. John C. Kois, Sr., Trevor Maurer, Jeffrey

¹ In its Opposition to Patterson’s Motion to Dismiss, Complaint Counsel walked back from their Opening Statement in this regard: “Complaint Counsel does not allege the agreement was nullified on a specific date. Rather, Complaint Counsel alleges that the conspiracy started to fall apart in 2015, after Benco entered into a settlement agreement with the Texas Attorney General in April 2015 ... The unlawful agreement between Respondents was difficult to maintain much longer after Benco settled with the Texas Attorney General.” (CMTD at 17-18 n.99).

Reece, Justin Puckett, Mark Rowe, Brian Evans, Randall McLemore, Mark Mlotek, Glenn Showgren, Darci Wingard, Wesley Fields, and Anthony Fruehauf. (RX 2958-009-12).

83. Every individual listed above who testified in this case² denied before this Court, under penalty of perjury, any knowledge of the alleged conspiracy. (RX 2958-009-12). Indeed, several witnesses testified that Complaint Counsel's interrogatory response was false. (Foley, Tr. 4735-36 ("Q. That's false; right, sir? A. That is correct."); (Titus, Tr. 5279-80) ("That is not true." ... "That is not a true statement."); Cavaretta, Tr. 5621-22 ("That would be false."); Cavaretta, Tr. 5623 ("Q. So the statement in the document is false. A. False, correct.") Reece, Tr. 4490-91 ("Q. It's true that it's a lie? A. It's true that I ... do not have awareness of an agreement specific to group purchasing organizations."); Maurer, Tr. 4989-90 ("Q. So this is false. Fair? A. I guess so.")).

84. Patterson's Requests for Admission 11 and 12 asked Complaint Counsel to admit, respectively, that "no witness has admitted to having personal knowledge of an agreement between Respondents not to do business with Buying Groups," and that "no witness currently or formerly employed by Respondents has admitted to the existence of an agreement between Respondents not to business with Buying Groups." (RX 2944-009-10).

85. Complaint Counsel denied both requests. (RX 2944-009-10).

² All witnesses listed testified except for Rick Cohen, Mark Rowe, Brian Evans, Randall McLemore and Glenn Showgren. However, Brian Evans, Benco's Director of Sales for the West, testified in a separate matter that it would "surprise [him]" if executives from Benco and Patterson had coordinated with one another to not work with buying groups. (RX 1121 (Evans, Class Action Dep. at 279 ("Q. Would it surprise you if executives from Benco and Patterson had coordinated with one another to ban working with buying groups?... A. Yes."))). Moreover, Paul Jackson, Michael McElaney, Mark Mlotek and Wesley Fields were only deposed in an investigational hearing capacity. Dean Kyle is not listed by Complaint Counsel as a "person hav[ing] knowledge" of the alleged conspiracy and was only deposed in an investigational hearing capacity.

86. There was no evidence in the record at the time Complaint Counsel completed this sworn discovery response that any witness had admitted to having personal knowledge of a conspiracy between Schein, Patterson, and Benco not to do business with buying groups.³

87. There is no evidence in the record that any witness has admitted to having personal knowledge of a conspiracy between Schein, Patterson, and Benco not to do business with buying groups. (*Compare* RX 2944-009-10 with ¶¶ 82-106 *infra*).

88. Complaint Counsel's denials of Patterson's Requests for Admission 11 and 12 were false. (RX 2944-009-10; *see* ¶¶ 82-106 *infra*).

2. *No Party Witness Testified to Any Knowledge of the Alleged Agreement.*

89. Every Schein witness to testify at trial disclaimed the existence of the alleged agreement or any knowledge of the agreement.

90. Tim Sullivan, President of Henry Schein Dental, was offended by Complaint Counsel's allegations and "never" entered into the alleged agreement with either Benco or Patterson. (Sullivan, Tr. 4020-21 ("I don't know if people understand the consequences of being falsely accused, the impact it has on family, our team members, customers who know what our brand stands for. There are consequences to falsely accusing people of things we know we didn't do."), 4257 ("Q. Never had any kind of agreement with any of your competitors about buying groups? A. Never.")).

91. Dave Steck, Vice President and General Manager of Henry Schein Dental, also knew nothing of an agreement between Patterson, Benco and Schein relating to buying groups. (Steck,

³ Respondents understand and have endeavored to abide by this Court's Order that "All proposed findings of fact shall be supported by specific references to the evidentiary record." (Feb. 21, 2019 Order on Post-Trial Briefs). But where a proposed finding of fact involves the absence of evidence in the record supporting a given point, Respondents cannot usually cite the record.

Tr. 3708-10, 3830-33 (“Q. Do you have any knowledge of any agreement involving Patterson concerning not selling to buying groups? A. I have no knowledge. Q. From your perspective, has there ever been any such agreement? A. Not -- no Q. Do you have any knowledge of the existence of any agreement between Schein and Benco about buying groups? A. Do not.”)).

92. Randy Foley, Schein’s former Vice President of Sales for Special Markets, repeatedly denied the existence of an agreement between Patterson, Benco, and Schein relating to buying groups. (Foley, Tr. 4600 (“Q. Mr. Foley, are you aware of any such agreement between Benco, Schein and Patterson not to provide discounts to or otherwise contract with buying groups of independent dentists? A. No.... Q. You’ve never heard of such an agreement. A. Never.”)).

93. Jake Meadows, Schein’s former Vice President of Sales for the Eastern Area and current Vice President of Sales for Special Markets, had no knowledge of an agreement between Patterson, Benco, and Schein. (Meadows, Tr. 2467 (“Q. Do you know anything about such an agreement? A. I do not. Q. Have you ever heard of such an agreement? A. Never heard of it.”)).

94. Joe Cavaretta, Schein’s former Vice President of Sales for the Eastern Area and Western Area, was not aware of, and did not enter into, an agreement relating to buying groups with Patterson or Benco. (Cavaretta, Tr. 5529 (Q. Are you aware of any agreement between Benco, Schein and Patterson not to do business with buying groups? A. I’m not. ... Q. Are you aware of any agreement or understanding of any way between Benco, Schein and Patterson not to offer discounts to buying groups? A. No, I’m not.”), 5622-27)).

95. Kathleen Titus, Schein’s former Director of Group Practice and Zone Manager for Special Markets, felt personally diminished by Complaint Counsel’s allegations and disclaimed the existence of any such agreement between Schein, Patterson, and Benco. (Titus, Tr. 5191-93 (“Q. Ms. Titus, are you aware of any agreement between Benco, Schein and Patterson not to

provide discounts to or otherwise contract with buying groups of independent dentists? A. Absolutely not, because no agreement existed, and I know that because it was my job to work with buying groups over the last twenty-plus years. In fact, I find it personally diminishing because I spent so much of my career at Henry Schein working with buying groups.”)). Ms. Titus further testified that Complaint Counsel’s sworn response to Schein’s Interrogatory 11, naming her as a Schein executive or employee who had “referred to and/or enforced Schein’s policy not to provide discounts to or compete for the business of Buying Groups” was false. (RX 2957-012-13; Titus, Tr. 5280 (“And you see the part that he just highlighted at the beginning of that sentence, ‘Other Schein executives and employees also referred to and/or enforced Schein’s policy not to provide discounts to or compete for the business of Buying Groups, including’ -- and your name is listed, Kathleen Titus. Is that a true statement? A. That is not a true statement. Q. Have you ever referred to or enforced a conspiracy involving Patterson? A. No, I have not, and there was no conspiracy.”)).

96. Every Schein witness who was deposed but not called to testify at trial disclaimed the existence of the alleged agreement or any knowledge of the agreement, including Jim Breslawski, Brian Brady, Hal Muller, Debbie Foster, Andrea Hight, Michael Porro, Darci Wingard, and Mark Mlotek. (CX 8012 (Breslawski, Dep. at 242 (“Q. The FTC alleges in this action that Henry Schein had an agreement with Patterson and Benco to not do business with buying groups. Do you have any knowledge of such an agreement? A. I do not. Q. Would such an agreement be contrary to Henry Schein’s business practices about working with buying groups? A. It would.”)); CX 8020 (Brady, Dep. at 318-19 (“Q. And it’s fair to say you’ve never reached an agreement or understanding with anyone at Patterson about buying groups or GPOs? A. Correct. Q. The FTC alleges in this case that Henry Schein had an agreement with Patterson and Benco to not do

business or not offer discounts to buying groups or GPOs. Do you have any knowledge of such an agreement? A. No. Q. Would you say that such an alleged agreement would be contrary to your understanding of Henry Schein's business principles? A. Yes."); CX 8001 (Foster, Dep. at 163-66 ("Q. Are you aware of any agreement between Schein and Patterson not to do business with buying groups? A. No.... [Q.] [A]re you aware of any agreement between Benco and Schein not to do business with buying groups? A. No.")); CX 8022 (Hight, Dep. at 192-193 ("I have no knowledge at all of any such agreement.")); CX 8005 (Muller, Dep. at 223 ("Q. Do you have any knowledge of the allegation made by the FTC that there's an agreement between Patterson, Benco and Henry Schein regarding buying groups? A. No.")); CX 8000 (Porro, Dep. at 287-89 ("Q. Are you aware of any agreement between Schein and Patterson not to do business with buying groups? A. No.... Q. And again, you certainly didn't reach any agreement with anyone at Patterson not to do business with buying groups? A. I have not.... Q. Are you aware of any agreement between Benco and Schein not to do business with buying groups? A. No.")); CX 8009 (Wingard, Dep. 233, 248-49 ("Q. Are you aware of any agreement between Schein and Benco not to do business with any APC or buying group? A. No.")); CX 0308 (Mlotek, IHT at 183 ("Q. Has Schein ever entered into any agreement, acquisition or joint venture agreement with Patterson? A. No."), 184 (Q. And are you aware of anyone from Schein communicating with Benco about group purchasing organizations or buying groups? A. Not to the best of my knowledge."))).

97. Every Patterson witness to testify at trial disclaimed the existence of the alleged agreement or any knowledge of the agreement.

98. Paul Guggenheim, former-President and current-CEO of Patterson, denied that he has ever agreed to, or heard of, such an agreement with Benco or Schein to not sell to buying groups. (Guggenheim, Tr. 1853 ("Q. Have you ever heard of such an agreement between [Schein] and

Patterson? A. No.”), 1870 (“Q.... [D]id you believe that you formed any agreement between Patterson and Benco not to do business with buying groups? A. Absolutely not.”)).

99. Neal McFadden, President of the Special Markets division at Patterson, repeatedly denied the existence of an agreement between Patterson, Benco, and Schein relating to buying groups. (McFadden, Tr. 2740 (“Q. Did you personally, Neal McFadden, at any time in your 21 years with Patterson, did you strike an agreement with somebody from Benco or somebody from Schein that you would not sell or discount to buying groups? Did you do that, sir? A. I did not.”), 2836-37).

100. Dave Misiak, Patterson’s former North American President, denied Patterson’s involvement in an agreement with Schein or Benco to boycott buying groups. (Misiak, Tr. 1502 (Q. “This document up here is the agreement that the FTC and complaint counsel allege that we had. It says, ‘Benco, Schein and Patterson agreed not to provide discounts to, or otherwise contract with, buying groups of independent dentists.’ Do you have any knowledge of such an agreement with my client Henry Schein? A. Absolutely not ... Q. Do you have any knowledge of such an agreement with Benco? A. I do not.”)).

101. Tim Rogan, Patterson’s former Vice President of Marketing and Merchandise and current Vice President and General Manager for North America, also denied the existence of an agreement between Patterson, Benco, and Schein relating to buying groups. (Rogan, Tr. 3652 (“Q. Have you ever reached such an agreement with Schein or Benco? A. No. Q. Do you have any knowledge whatsoever about such an alleged agreement? A. No. Q. Have you ever heard of such an alleged agreement? A. No.”)).

102. Patterson witnesses who were deposed but not called to testify at trial also disclaimed the existence of the alleged agreement or any knowledge of the agreement, including Scott

Anderson, Wesley Fields, Anthony Fruehauf, Joe Lepley, and Devon Nease. (CX 8027 (Anderson, Dep. at 161-63 (Q. Are you aware that the FTC in this Complaint has alleged that Benco, Schein and Patterson executives agreed not to provide discounts to or otherwise contract with buying groups? A. No. Q. Do you know of any such agreements involving any Schein executives? A. No.”)); CX 0312 (Fields, IHT at 104-05 (“Q. Did Paul Guggenheim ever tell you about any agreement that Patterson had with Benco or Schein relating to GPOs or buying groups? A. No. Q. Mr. Guggenheim never mentioned any agreement that Patterson had with regard to Schein or Benco? A. No.”)); CX 8013 (Fruehauf, Dep. at 191, 195-96 (“Q. The Complaint in this case alleges that rather than respond to the threat of buying groups independently, the distributors, that is, Schein, Patterson and Benco entered into an agreement to force all this threat through collective coordinated action. Do you know of any such agreements involving Schein? A. I do not.”)); CX 8028 (Lepley, Dep. at 112-13 (Q. The Complaint in this matter also reads, ‘Benco, Schein and Patterson executives agreed not to provide discounts to or otherwise contract with buying groups.’ Q. Do you know of any such agreements involving any Schein executives? A. I do not have any knowledge of such things.”)); CX 8002 (Nease, Dep. at 127-28 (“Q. Are you aware of any agreement between Benco and Patterson not to do business with so-called buying groups? A. I am not.”), 134-35, 137 (“Q. Mr. Nease, do you know of any such agreements referenced in paragraph 8 involving any Schein executives? A. No.)).

103. Every Benco witness who testified at trial disclaimed the existence of the alleged agreement or any knowledge of the agreement.

104. Chuck Cohen, Managing Director of Benco, testified that he never formed an agreement with Patterson or Schein relating to buying groups. (Cohen, Tr. 705 (“Q. Did you ever form or seek to form any agreement with Patterson or Schein on buying groups? A. No.”)).

105. Patrick Ryan, Benco's former Director of Sales and Strategic Markets and current Director of Equipment Research and Development, denied that Benco had any agreement with Patterson or Schein relating to buying groups. (Ryan, Tr. 1238 ("Q. Did you ever have such an agreement with anyone at Henry Schein? A. No. Q. Did you ever have a discussion about such an agreement with anyone at Henry Schein? A. No."), 1269 ("Q. Mr. Ryan, did Benco have – to your knowledge, did Benco have an agreement of any kind with my client Patterson regarding buying groups? A. Not to my knowledge. Q. So their allegations are false; correct, sir? A. Yes.")).

106. Every Benco witness who was deposed at the investigational phase, but not called to testify at trial also disclaimed any knowledge of the alleged conspiracy, including Paul Jackson and Michael McElaney. (CX 0302 (Jackson, IHT at 204 ("Q. But you are not aware of conversations with Patterson or Schein regarding GPOs – A. No.")); CX 0303 (McElaney, IHT at 108 (Q. Okay. Do you know if Schein or Patterson have no GPO policies today? A. No.))).

3. *No Non-Party Witness Testified to Any Knowledge of the Alleged Agreement.*

107. Dr. Baytosh, a practicing dentist and the former President of the Corydon Palmer Dental Society, testified at trial that he has no knowledge of an agreement between Schein, Benco, and Patterson not to do business with buying groups. (Baytosh, Tr. 1879, 1898 ("Q. Do you have any knowledge of an agreement between Schein, Benco, and Patterson not to do business with buying groups? A. No. Q. Other than in this case, have you ever heard of such an agreement? A. Not to my knowledge.))).

108. Dr. Brenton Mason, a practicing dentist and one of the founding members of the New Mexico chapter of the Utah Dental Co-Op, testified at trial that he had no knowledge of any agreement between Schein, Patterson, and Benco not to offer discounts to or do business with buying groups. (Mason, Tr. 2331, 2390-91 ("Q. So before we get started, do you have any

knowledge of any agreement between Schein, Patterson, and Benco not to offer discounts to or do business with buying groups? A. No, I do not.”)).

109. Dr. Richard Johnson, co-owner and founder of the buying group Klear Impakt, testified at trial that he has never heard of the agreement alleged by Complaint Counsel. (R. Johnson, Tr. 5505-08 (“Q. They allege that Benco, Schein and Patterson agreed not to provide discounts to, or otherwise contract with, buying groups of independent dentists. Do you see that? A. Yes. Q. Do you know anything about such an alleged agreement? A. I don’t know anything about that agreement. Q. Have you heard of any agreement like this? A. No, I have not.”)).

110. Trevor Maurer, President and CEO of Smile Source, testified at trial that he had no knowledge of any agreement between Schein, Benco, and Patterson to not do business with buying groups. (Maurer, Tr. 4935, 4956, 4987-88, 4990 (“[T]hey said the following persons have knowledge of the facts underlying their conspiracy allegation against my client Patterson. ... And if we go to the next page, at about the bottom of the list they listed you, Trevor Maurer. Do you see that? A. I do. Q. But you don’t actually have that knowledge, do you, sir? A. That’s correct. Q. So this is false. Fair? A. I guess so. Q. And did they ask your permission to put this false answer with your name on it in their interrogatory answer? A. I don’t know how to answer that, but nobody asked me my permission to put something false in a document, no.”)).

111. Jeffrey Reece, Vice President of Sales and Marketing at Burkhart, testified at trial that he had no knowledge of any agreement between Schein, Benco, and Patterson to not do business with buying groups. (Reece, Tr. 4359, 4463-64 (“Q.... On the screen is the agreement ... that the FTC alleges in this case that Schein was a participant in, and it says, “Benco, Schein, and Patterson agreed not to provide discounts to, or otherwise contract with, buying groups of independent

dentists.” Do you see that? A. I do. Q. Do you have any personal knowledge about whether Schein has ever entered into such an agreement? A. I do not.”)).

112. Dr. John Kois Sr., founder of the Kois Buyers Group, testified at trial that he had no knowledge of any agreement between Schein, Benco, and Patterson to not do business with buying groups. (Kois Sr., Tr. 180, 223 (“Q. Dr. Kois, ... You have no firsthand knowledge of any conspiracy between my client Patterson and anyone from Schein or Benco; correct? A. That’s correct.”)).

113. Mr. John Kois Jr., CEO of Kois Center and manager of the Kois Buyers Club, testified at his deposition that he had no knowledge of any agreement between Schein, Patterson, and Benco to refuse to work with buying groups. (CX 8008 (Kois Jr., Dep. at 8-9, 117 (“Q. And you don’t have any personal knowledge of the existence of any such agreement, do you? A. Any what kind of agreement? Q. Any agreement between Patterson, Schein and Benco to not do business with buying groups? A. I have no knowledge of that.”), 173)).

114. Dr. Goldsmith, former President and Chief Dental Officer of Smile Source, testified to facts that directly contradicted the alleged agreement: he received three different responses from each of the three Respondents. (Goldsmith, Tr. 2177 (“... [s]o three different respondents, three different responses; correct? A. Yes.”); 2175-77 (“Q. And by the way, during the meeting, did they stop the meeting and say, Hey, I have to call Chuck Cohen at Benco to see if we can do this because we have an agreement? A. No. Q. Nobody ever said that. A. No.”); Goldsmith, Tr. 2177 (“Q. So three different respondents, three different responses; correct? A. Yes.”)).

115. Mr. Ryan Dew, Senior Director of Business Operations at Brasseler, a manufacturer and direct seller of dental instruments, testified at deposition that he had no knowledge of any agreement between Schein, Patterson, and Benco to refuse to work with buying groups. (RX 2955

(Dew, Dep. at 10, 178-80 (“Q. And do you have any direct or personal knowledge that Benco, Schein and Patterson entered into any agreements to refuse to provide discounts to or compete for the business of buying groups? A. I do not.”))).

116. Mr. Mitchell Goldman, CEO of Mid-Atlantic Dental Partners (a DSO), testified at deposition that he had no knowledge of any agreement between Schein, Patterson, and Benco to refuse to work with buying groups. (RX 2953 (Goldman, Dep. at 10-12, 153 (“Q. I have just one question for you: Do you have any knowledge of any agreements between Patterson, Schein, or Benco not to do business with anyone? A. No.”))).

117. Mr. Robert Lowther, Owner and President of the Denali Group, testified at deposition that he had no knowledge of any agreement between Schein, Patterson, and Benco to refuse to work with buying groups, and that his experience had actually been the exact opposite of that. (RX 2961 (Lowther, Dep. at 11-12 (“From my understanding of what the complaint is alleging, it’s not true or correct based on – on what actually happens in our relationship...What the Denali Group does is exactly what – with Henry Schein, Patterson, and Benco in the past is exactly what the FTC says they do not do.”), 193-94 (“I do not. That has not been our company's experience...”))).

118. Mr. Frank Capaldo, Executive Director and CEO of the Georgia Dental Association since March 2014 and CEO of Integrity Dental Buyers Group, LLC since its inception in July 2015, testified at deposition that he had no personal knowledge of any agreement between Schein, Patterson, and Benco to not do business with buying groups. (CX 8011 (Capaldo, Dep. at 11-12, 33-34 (“Q. And are you aware that the FTC is alleging that Patterson, Schein and Benco entered into an agreement in 2013 not to do business with buying groups? A. Generally, yes. Q. Have you read the complaint in this case? A. I have. Q. You have no personal knowledge of any such agreement, do you, sir? A. I do not.”))).

CONCLUSIONS OF LAW⁴

D. Legal Framework

1. *Burden of Proof*

1. Complaint Counsel must prove each element of its case by a preponderance of the evidence. *See In re Adventist Health Sys./W.*, 117 F.T.C. 224, at *297 (1994); *see also FTC v. Cement Inst.*, 333 U.S. 683, 705 (1948); *Cal. Dental Ass’n v. FTC*, 224 F.3d 942, 957 (9th Cir. 2000); *Cinderella Career & Finishing Sch., Inc. v. FTC*, 425 F.2d 583, 592 n.2 (D.C. Cir. 1970); *Rayex Corp. v. FTC*, 317 F.2d 290, 292 (2d Cir. 1963).

2. The burden of showing something by a preponderance of the evidence “requires the trier of fact to believe that the existence of a fact is more probable than its nonexistence before [he] may find in favor of the party who has the burden....” *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Tr. for S. Cal.*, 508 U.S. 602, 622 (1993). “Where the evidence points equally to two or more inferences, an objective fact finder should not decide the inference in favor of the party with the burden of proof,” here, Complaint Counsel. *In re McWane, Inc. & Star Pipe Prods., Ltd.*, 155 F.T.C. 903, at *268 (2013), *aff’d in part, rev’d in part*, FTC No. 9351, 2014 WL 556261 (Jan. 30, 2014), *aff’d sub nom. McWane, Inc. v. FTC*, 783 F.3d 814 (11th Cir. 2015); *see Venture Tech., Inc. v. Nat’l Fuel Gas Co.*, 685 F.2d 41, 48 (2d Cir. 1982) (reversing and remanding for judgment in favor of the defendants and holding that the evidence was insufficient to support a finding of conspiracy when it “point[ed] with at least as much force toward unilateral actions by [the respondents] as toward conspiracy”).

⁴ Unless otherwise noted, all emphasis is added and internal citations and quotation marks are omitted.

2. Section 1 Bars Only “Agreements” In Restraint of Trade

3. Section 1 of the Sherman Act prohibits contracts, combinations, and conspiracies that unreasonably restrain trade. 15 U.S.C. § 1.

4. “The existence of an agreement is the very essence of a section 1 claim.”⁵ *In re McWane, Inc.*, 155 F.T.C., at *223; *In re Benco Dental Supply Co.*, FTC No. 9379, 2018 WL 6338485, at *4 (Nov. 26, 2018); *In re Flat Glass Antitrust Litig.*, 385 F.3d 350, 356 (3d Cir. 2004); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 553 (2007); *In re Baby Food Antitrust Litig.*, 166 F.3d 112, 117 (3d Cir. 1999). Thus, the central question in this case is whether Respondents’ decisions regarding “buying groups” “stem[] from independent decision or from an agreement” *preceding* those decisions. *Twombly*, 550 U.S. at 553.

5. “Section 1 of the Sherman Act ‘does not prohibit [all] unreasonable restraints of trade[;] ... only restraints effected by a contract, combination, or conspiracy.’” *In re McWane, Inc.*, 155 F.T.C., at *223 (citing *Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752, 775 (1984)). As such, “[i]t does not reach independent decisions, even if they lead to the same anticompetitive result as an actual agreement among market actors.” *In re McWane, Inc.*, 155 F.T.C., at *223.

6. Because “Section 1 ‘does not prohibit independent business actions and decisions[,]’” a “person still has the right to refuse to do business with another, provided he acts independently, and not pursuant to an unlawful understanding, tacit or expressed.” *Michelman v. Clark-Schwebel Fiber Glass Corp.*, 534 F.2d 1036, 1042 (2d Cir. 1976); *see also, e.g., Burtch v. Milberg Factors, Inc.*, 662 F.3d 212, 221 (3d Cir. 2011) (“Unilateral action, regardless of the

⁵ Proof of an illegal agreement under Section 5 of the FTC Act is identical to proof of an illegal agreement under Section 1 of the Sherman Act. *See, e.g., Cal. Dental Ass’n v. FTC*, 526 U.S. 756, 762 & n.3 (1999) (explaining that Section 5 of the FTC Act “overlaps the scope of § 1 of the Sherman Act”); *FTC v. Cement Inst.*, 333 U.S. 683, 691-92 (1948) (“[S]oon after its creation the Commission began to interpret the prohibitions of § 5 as including those restraints of trade which also were outlawed by the Sherman Act, and ... this Court has consistently approved that interpretation of the Act.”).

motivation, is not a violation of Section 1.”); *H.L. Moore Drug Exch. v. Eli Lilly & Co.*, 662 F.2d 935, 941 (2d Cir. 1981) (“A unilateral refusal ... to deal ..., absent proof that it was pursuant to a conspiracy, does not violate § 1 of the Sherman Act.”). This is an “elementary” right under the antitrust laws. *Tidmore Oil Co. v. BP Oil Co./Gulf Prods. Div.*, 932 F.2d 1384, 1388 (11th Cir. 1991).

7. As Judge Posner observed, “the Sherman Act imposes no duty on firms to compete vigorously, or for that matter at all, in price.” *In re Text Messaging Antitrust Litig.*, 782 F.3d 867, 873-74 (7th Cir. 2015) (“It is one thing to prohibit competitors from agreeing not to compete; it is another to order them to compete. How is a court to decide how vigorously they must compete in order to avoid being found to have tacitly colluded in violation of antitrust law?”); *see also In re Citric Acid*, 191 F.3d 1090, 1101 (9th Cir. 1999) (“Courts have recognized that firms must have broad discretion to make decisions based on their judgments of what is best for them and that business judgments should not be second-guessed even where the evidence concerning the rationality of the challenged activities might be subject to reasonable dispute.”).

8. Thus, “the crucial question” in this case is “whether the challenged anticompetitive conduct ‘stem[s] from independent decision or from an agreement....’” *In re McWane, Inc.*, 155 F.T.C. at *223; *City of Moundridge v. Exxon Mobil Corp.*, 2009 WL 5385975, at *6 (D.D.C. 2009) (“[W]here there is an independent business justification for the defendants’s [*sic*] behavior, no inference of conspiracy can be drawn.”), *aff’d sub nom. City of Moundridge, KS v. Exxon Mobil Corp.*, 409 F. App’x 362 (D.C. Cir. 2011).

9. “An ‘agreement’ is a ‘unity of purpose or a common design and understanding, or a meeting of minds’ as to the alleged unlawful arrangement at issue.” *In re McWane, Inc.*, 155 F.T.C. at *223 (quoting *Am. Tobacco Co. v. United States*, 328 U.S. 781, 810 (1946)). “In other

words, there must be a ‘conscious commitment to a common scheme designed to achieve an unlawful objective.’” *In re McWane, Inc.*, 155 F.T.C. at *223. (quoting *Monsanto Co. v. Spray-Rite Serv. Corp.*, 465 U.S. 752, 764 (1984)); *see also In re Benco Dental Supply Co.*, 2018 WL 6338485, at *5 (“there must be evidence ‘that reasonably tends to prove ... a conscious commitment to a common scheme designed to achieve an unlawful objective.’”).

10. Moreover, in a multi-party case, Complaint Counsel must show that each Respondent participated in the alleged agreement in order to find that particular Respondent liable. *See United States v. U.S. Gypsum Co.*, 438 U.S. 422, 463 (1978) (“[L]iability [can] only be predicated on the knowing involvement of each defendant, considered individually, in the conspiracy charged.”); *Anderson News, L.L.C. v. Am. Media, Inc.*, 899 F.3d 87, 106-11 (2d Cir. 2018) (assessing the evidence defendant-by-defendant), *cert. denied*, 2019 WL 1318586 (2019); *In re Citric Acid*, 191 F.3d at 1106 (“Considered as a whole, the evidence in the record, though it clearly shows that several citric acid producers conspired to fix prices and to allocate market shares, does not tend to exclude the possibility that Cargill acted independently – and thus does not support a reasonable inference that *Cargill* was involved in the citric acid price-fixing conspiracy.”); *see also, e.g., Mylan Labs., Inc. v. Akzo, N.V.*, 770 F. Supp. 1053, 1066-67 (D. Md. 1991) (plaintiff “must show that each alleged conspirator ‘participated in the conspiracy with knowledge of the essential nature of the plan’”).

11. “[M]erely intoning the magic words ‘unitary conspiracy’” is not enough. *Zenith Radio Corp. v. Matsushita Elec. Indus. Co.*, 513 F. Supp. 1100, 1310-11 (E.D. Pa. 1981). Plaintiffs must show evidence “not only of the existence of a conspiracy to restrain trade, but also of the membership of that defendant in the conspiracy.” *Zenith Radio Corp.*, 513 F. Supp. at 1265.

12. Evidence of “bilateral agreements” between two defendants thus cannot support an “overarching conspiracy” among all defendants. *See In re Actos End Payor Antitrust Litig.*, 2015 WL 5610752, at *26 (S.D.N.Y. 2015) (dismissing conspiracy allegations where plaintiffs’ “overarching conspiracy claim ... lack[ed] sufficient factual support” because the complaint merely detailed bilateral agreements rather than coordinated action by all the defendants, which was not “sufficient factual support” for coordinated action by all the defendants), *aff’d in part, vacated in part, In re Actos End-Payor Antitrust Litig.*, 848 F.3d 89 (2d Cir. 2017); *In re Iowa Ready-Mix Concrete Antitrust Litig.*, 768 F. Supp. 2d 961, 975 (N.D. Iowa 2011) (guilty pleas in “separate bilateral conspiracies” could not support an inference of a “wider conspiracy”); *see also, e.g., Kotteakos v. United States*, 328 U.S. 750, 771, 775 (1946) (reversing judgments against defendants where the jury was impermissibly asked to “impute to each defendant the acts and statements of the others ... and to find an overt act affecting all in conduct which admittedly could only have affected some” because it is defendants’ “right not to be tried en masse for the conglomeration of distinct and separate offenses committed by others...”); *In re Optical Disk Drive Antitrust Litig.*, 2011 WL 3894376, at *9 (N.D. Cal. 2011) (an allegation that “auctions involv[ing] only a small subset of defendants” were rigged “is a far cry from establishing plausibility for a broad six year continuing agreement among all defendants...”).

13. Certainly, communications that do not involve a Respondent do not “constitute evidence” that the Respondent participated in a conspiracy. *In re McWane, Inc.*, 155 F.T.C. at *264 (rejecting conspiracy claim against Respondent where two other alleged conspirators communicated because “[r]egardless of what the foregoing communications may imply about the conduct of [the two alleged co-conspirators], these communications do not implicate ... the Respondent...”).

14. While it “is not necessary to find an express agreement in order to find a conspiracy,” Complaint Counsel must show that “***a concert of action is contemplated*** and that the defendants conformed to the arrangement.” *In re Benco Dental Supply Co.*, 2018 WL 6338485, at *15 (quoting *United States v. Paramount Pictures, Inc.*, 334 U.S. 131, 142 (1948)); *see also In re Flat Glass*, 385 F.3d at 356-57 (quoting *Alvord-Polk*, 37 F.3d at 999 & n.1) (“The Sherman Act speaks in terms of a ‘contract,’ ‘combination’ or ‘conspiracy,’ but courts have interpreted this language to require ‘some form of concerted action.’”). “Concerted action” is “[a]n action that has been planned, arranged, and agreed on by parties acting together to further some scheme or cause, so that all involved are liable for the actions of one another.” Black’s Law Dictionary (10th Ed. 2014).

3. Proof of a Conspiracy

15. “A conspiracy may be demonstrated by direct or circumstantial evidence.” *In re McWane, Inc.*, 155 F.T.C. at *223; *Erie Cty., Ohio v. Morton Salt, Inc.*, 702 F.3d 860, 867-68 (6th Cir. 2012) (“An agreement, either tacit or express, may ultimately be proven either by direct evidence of communications between the defendants or by circumstantial evidence of conduct that, in the context, negates the likelihood of independent action and raises an inference of coordination.”).

a. Proving a Conspiracy through Direct Evidence

16. “Direct evidence in a Section 1 conspiracy must be evidence that is explicit and requires no inferences to establish the proposition or conclusion being asserted.” *In re McWane, Inc.*, 155 F.T.C. at *223 (quoting *In re Baby Food Antitrust Litig.*, 166 F.3d at 118); *In re Benco Dental Supply Co.*, 2018 WL 6338485, at *6; *In re Citric Acid*, 191 F.3d at 1093-94. “‘Direct’ evidence must evince with clarity a concert of illegal action.” *Cosmetic Gallery, Inc. v. Schoeneman Corp.*, 495 F.3d 46, 52 (3d Cir. 2007).

17. Direct evidence of a conspiracy can include eyewitness testimony about the agreement by a person who participated in or witnessed the agreement; a written agreement reflecting the unreasonable restraint; or party-admissions in documents unambiguously revealing the existence of an agreement. *Superior Offshore Int'l, Inc. v. Bristow Grp., Inc.*, 490 F. App'x 492, 497-98 (3d Cir. 2012) (“Direct evidence” consists of “a document or conversation explicitly manifesting the existence of the agreement in question.”) (quoting *In re Ins. Brokerage Antitrust Litig.*, 618 F.3d 300, 324 n.23 (3d Cir. 2010)); see also *Mayor & City Council of Balt., Md. v. Citigroup, Inc.*, 709 F.3d 129, 136 (2d Cir. 2013) (a “recorded phone call”); *Burtch*, 662 F.3d at 226 (“A document or conversation explicitly manifesting the existence of the agreement in question’ is an example [of] direct evidence.”) (quoting *In re Ins. Brokerage Antitrust Litig.*, 618 F.3d at 324 n.23)).

18. In contrast, it is well established that evidence of competitor communications does not by itself create even an inference of a conspiracy, let alone direct evidence of one. See *City of Moundridge*, 409 F. App'x at 364 (a “few scattered communications” and other evidence “falls far short” of establishing a conspiracy); *Cosmetic Gallery, Inc.*, 495 F.3d at 52-53 (agreeing with district court that evidence of competitor communications “lacked the clarity of the direct evidence proffered in other antitrust cases” and instead “required several inferences to serve as direct proof of a conspiracy”); *In re Baby Food Antitrust Litig.*, 166 F.3d at 126 (“[C]ommunications between competitors do not permit an inference of an agreement to fix prices unless ‘those communications rise to the level of an agreement, tacit or otherwise.’”); *Alvord-Polk, Inc.*, 37 F.3d at 1013 (finding no direct or indirect evidence of an agreement where communications between defendants related to the “800-number subject” – and “actions [defendants] were taking concerning them” – but did not constitute an agreement “to injure the 800-number dealers,” explaining that “[c]ommunications

alone ... do not necessarily result in liability [because] it is only when those communications rise to the level of an agreement ... that they become an antitrust violation.”); *Mkt. Force Inc. v. Wauwatosa Realty Co.*, 906 F.2d 1167, 1173 (7th Cir. 1990) (“[I]t is well established that evidence of informal communications among several parties does not unambiguously support an inference of a conspiracy.”) (collecting cases); *Oreck Corp. v. Whirlpool Corp.*, 639 F.2d 75, 79 (2d Cir. 1980) (“A mere showing of close relations or frequent meetings between the alleged conspirators, however, will not sustain a plaintiff’s burden absent evidence which would permit the inference that those close ties led to an illegal agreement.”).

19. At best, such evidence constitutes mere opportunity evidence, and cannot support an inference of wrongdoing. *Petruzzi’s IGA Supermarkets, Inc. v. Darling-Del. Co.*, 998 F.2d 1224, 1235, 1242 n.15 (3d Cir. 1993) (treating evidence of social calls and telephone contacts as “[p]roof of opportunity to conspire [which], without more, will not sustain an inference that a conspiracy has taken place”); *Cosmetic Gallery, Inc.*, 495 F.3d at 53 (an “account” of a “communication between alleged conspirators” was “at best evidence of an opportunity to conspire, not of concerted action.”); *Venzie Corp. v. U.S. Mineral Prods. Co.*, 521 F.2d 1309, 1312 (3d Cir. 1975) (evidence that defendants made “numerous telephone calls” to each other, at least one of which concerned allegedly boycotted plaintiffs, only proved an opportunity for an agreement, and would not suffice to support a verdict); *Kleen Prods. LLC v. Georgia-Pac. LLC*, 910 F.3d 927, 938 (7th Cir. 2018) (“[H]aving the *opportunity* to conspire does not necessarily imply that wrongdoing *occurred*.”)

20. Likewise, “vague statements such as an admonition to competitors to ‘play by the rules’ do not constitute direct evidence of a conspiracy.” *Superior Offshore Int’l, Inc.*, 490 F. App’x at 498 (citing *InterVest, Inc. v. Bloomberg, L.P.*, 340 F.3d 144, 149, 156 n.5 (3d Cir. 2003))

(holding that “cases require that direct evidence of an illegal agreement be established with much greater clarity” than the ambiguous statements made between bond traders in that case).

21. Evidence that a competitor *invited* a Respondent to participate in a conspiracy also does not constitute direct evidence that Respondent actually reached an *agreement* to restrain trade. “It remains the plaintiff’s burden to prove that the [Respondent] succumbed to the temptation and conspired. It is not enough to point out the temptation and ask that the [Respondents] bear the onerous, if not impossible, burden of proving the negative – that no conspiracy occurred.” *In re McWane, Inc.*, 155 F.T.C. at *265; *see also Reserve Supply Corp. v. Owens-Corning Fiberglas Corp.*, 971 F.2d 37, 50 n.9 (7th Cir. 1992) (evidence that a party provided vague information that it foresaw only moderate growth and very little increase in capacity to a competitor and that the competitor “did not respond with any information ... or plans” concerning its own business strategies in response “is insufficient to infer an agreement....”).

22. Indeed, “[i]t would not be reasonable to infer that [a defendant] engaged in illegal activities merely from evidence that an illegal course of action was suggested but immediately rejected.” *In re Citric Acid*, 191 F.3d at 1093, 1098 (dismissing case against defendant who “conced[ed] the existence of a conspiracy in the citric acid market but den[ied] its participation therein”); *see also El Cajon Cinemas, Inc. v. Am. Multi-Cinema, Inc.*, 832 F. Supp. 1395, 1398 (S.D. Cal. 1993) (“[W]hen Pacific attempted to initiate the conversations with AMC, [and] AMC declined to speak with Pacific on the issues ... the potential for a conspiracy, the Court finds, was wholly negated.”).

b. Sworn Denials Are Direct Evidence Entitled to Significant Weight

23. Sworn denials of the existence of an agreement by those alleged to have personal knowledge of the agreement is direct evidence that there was no agreement. *In re McWane, Inc.*,

155 F.T.C. at *267 (finding that defendants' sworn testimony denying the illegal conduct is "direct evidence contrary to the asserted [agreement] and is entitled to weight" and that such testimony cannot be "dismissed as 'self-serving'" absent a finding that the witness lied under oath or is otherwise not credible); *see also Lamb's Patio Theatre, Inc. v. Universal Film Exchs., Inc.*, 582 F.2d 1068, 1070 (7th Cir. 1978) (affirming summary judgment when there was a "lack of any credible evidence" and a sworn affidavit denying the conspiracy); *Weit v. Cont'l Ill. Nat'l Bank & Tr. Co. of Chi.*, 641 F.2d 457, 464-65 (7th Cir. 1981) (affirming summary judgment when plaintiffs could not produce "significant probative evidence" and the record contained "consistent sworn denials" of the alleged conspiracy); *Williamson Oil Co. v. Philip Morris USA*, 346 F.3d 1287, 1302 (11th Cir. 2003) (finding plaintiffs' evidence insufficient to overcome the defendants' sworn denials and that it would have been improper to permit the jury "to engage in speculation" in the face of defendants' denials).

24. Complaint Counsel "cannot make its case just by asking the fact finder to disbelieve the defendant's witnesses." *In re McWane, Inc.*, 155 F.T.C. at *267; *see also City of Moundridge v. Exxon Mobil Corp.*, 429 F. Supp. 2d 117, 130 (D.D.C. 2006) ("Facing the sworn denial of the existence of conspiracy, it is up to plaintiff to produce significant probative evidence ... that conspiracy existed..."); *City of Moundridge*, 409 F. App'x at 364 (a "few scattered communications" and other evidence "falls far short" of overcoming defendants' sworn denials); *Venzie Corp.*, 521 F.2d at 1313 ("mere disbelief [does] not rise to the level of positive proof of agreement to sustain plaintiffs' burden of proving conspiracy"); *Valspar Corp. v. E.I. Du Pont De Nemours & Co.*, 873 F.3d 185, 195 n.6 (3d Cir. 2017) (noting that, even if the court were to reject denials as pretextual, "pretextual reasons [for the alleged conduct] are insufficient to create a genuine issue of fact without other evidence pointing to [an unlawful] agreement"); *Alvord-Polk*,

Inc., 37 F.3d at 1014 (“Plaintiffs, however, seek to infer an agreement from those communications despite a lack of independent evidence tending to show an agreement and in the face of uncontradicted testimony that only informational exchanges took place. Without more, they cannot do so.”); *Benton v. Blair*, 228 F.2d 55, 61 (5th Cir. 1955) (holding that “it was clearly error for the district court to reject the uncontradicted, unimpeached and not inherently improbable or suspicious testimony....”); *Chesapeake & O. Ry. Co. v. Martin*, 283 U.S. 209, 214 (1931) (“[T]he court ... is not at liberty to disregard the testimony of a witness on the ground that he is an employee of the defendant, in the absence of conflicting proof or of circumstances justifying countervailing inferences or suggesting doubt as to the truth of his statement, unless the evidence be of such a nature as fairly to be open to challenge as suspicious or inherently improbable.”).

c. Proving a Conspiracy through Circumstantial Evidence

25. Because “it is rare to be able to prove a conspiracy with direct evidence, such as explicit agreements or admissions of conspiracy,” “the proponent of an alleged conspiracy will [more typically] rely upon inferences drawn from circumstantial evidence, such as the conduct of the parties.” *In re McWane, Inc.*, 155 F.T.C. at *223 (citing *City of Tuscaloosa v. Harcross Chems. Inc.*, 158 F.3d 548, 569 (11th Cir. 1998)); *ES Dev., Inc. v. RWM Enters.*, 939 F.2d 547, 553-54 (8th Cir. 1991); 6 Areeda & Hovenkamp, *Antitrust Law* ¶ 1410(c) at 71 (3d ed. 2010)).

26. Circumstantial evidence is “usually ... of two types – economic evidence suggesting that the defendants were not in fact competing, and noneconomic evidence suggesting that they were not competing because they had agreed not to compete.” *In re McWane, Inc.*, 155 F.T.C., at *223 (quoting *In re High Fructose Corn Syrup Antitrust Litig.*, 295 F.3d 651, 655 (7th Cir. 2002)).

27. Though an agreement can be proven through circumstantial evidence, “antitrust law limits the range of permissible inferences from ambiguous evidence in a § 1 case.” *Matsushita*

Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 588 (1986). “[M]istaken inferences in [antitrust] cases ... are especially costly, because they chill the very conduct the antitrust laws are designed to protect.” *Matsushita Elec. Indus. Co.*, 475 U.S. at 594. For that reason, the “circumstantial evidence of a conspiracy, when considered as a whole, must tend to rule out the possibility of independent action.” *In re McWane, Inc.*, FTC No. 9351, 2012 WL 5375161, at *6 (Aug. 9, 2012) (citing *Matsushita Elec. Indus. Co.*, 475 U.S. at 764); *Valspar Corp.*, 873 F.3d at 192.

28. In weighing ambiguous or circumstantial evidence, a tie – evidence that is equally consistent with permissible competition as with illegal conspiracy – does not permit an inference of conspiracy. *Anderson News, L.L.C.*, 899 F.3d at 98, 104-05 (“[I]f the evidence is in equipoise, then ... judgment must be granted against the plaintiff.... A jury’s choice between these two equally likely explanations for defendants’ conduct, one legal and one illegal, would ‘amount to mere speculation.’”); *see also, e.g., Richards v. Neilsen Freight Lines*, 810 F.2d 898, 903 (9th Cir. 1987) (affirming summary judgment for defendants despite testimony of a “gentlemen’s agreement” because “[a]t least three interpretations of the deposition testimony are possible[,]” including that “it might refer to industrywide acceptance of the competitive reality”).

29. Complaint Counsel’s evidence must “exclude” or “foreclose” the possibility of independent action. *Cosmetic Gallery, Inc.*, 495 F.3d at 53 (“Evidence that does not exclude the possibility of independent action or that relies on a factual context that is implausible is insufficient....”); *Mkt. Force Inc.*, 906 F.2d at 1173 (affirming dismissal where the evidence did “not foreclose the conclusion that the competitors were not engaged in a conspiracy”); *see also, e.g., Kleen Prods. LLC*, 910 F.3d at 934 (plaintiff’s evidence must “rule out the hypothesis that the defendants were engaged in self-interested but lawful oligopolistic behavior during the relevant

period”); *In re Citric Acid*, 191 F.3d at 1095 (even testimony of “a gentlemen’s agreement ... was not necessarily inconsistent with lawful behavior ... and thus did not tend to exclude the possibility of legitimate behavior”); *Reserve Supply Corp.*, 971 F.2d at 49 (“[C]onduct as consistent with permissible competition as with illegal conspiracy does not, standing alone, support an inference of antitrust conspiracy.... The plaintiff must demonstrate ... that the defendant acted in a way that, but for a hypothesis of joint action, would not be in its own interest.”) (quoting *Matsushita Elec. Indus. Co.*, 475 U.S. at 588 and *Ill. Corp. Travel Inc. v. Am. Airlines, Inc.*, 806 F.2d 722, 726 (7th Cir. 1986)); *In re K-Dur Antitrust Litig.*, 2016 WL 755623, at *18 (D.N.J. 2016) (“[I]f conduct can be explained in an equally plausible manner by an illegal conspiracy or by permissible competition, the finder of fact is not permitted to draw an inference of conspiracy.”).

30. The finder of fact must be particularly discerning when applying this standard in an oligopolistic setting. “Oligopolies pose a special problem under § 1 because rational, independent actions taken by oligopolists can be nearly indistinguishable from [concerted action]. This problem is the result of ‘interdependence,’ which occurs because ‘any rational decision [in an oligopoly] must take into account the anticipated reaction of other firms.’” *Valspar Corp.*, 873 F.3d at 192 (quoting *In re Flat Glass Antitrust Litig.*, 385 F.3d at 359). “Even though such interdependence or ‘conscious parallelism’ harms consumers just as a monopoly does, it is beyond the reach of [the] antitrust laws.” *Valspar Corp.*, 873 F.3d at 198. “Where interdependence seems likely, the finder of fact must ‘weigh all the evidence in the actual business context to decide whether a traditional agreement emphasizing commitment is more probable than not.’” *In re McWane, Inc.*, 155 F.T.C. at *227 (quoting *Kreuzer v. Am. Acad. of Periodontology*, 735 F.2d 1479, 1488 (D.C. Cir. 1984)).

31. Accordingly, to determine whether the circumstantial evidence suffices to prove an agreement, courts follow a three-step process.

First, the court must determine whether the plaintiff has established a pattern of parallel behavior. Second, it must decide whether the plaintiff has demonstrated the existence of one or more plus factors that ‘tends to exclude the possibility that the alleged conspirators acted independently’.... Third, if the first two steps are satisfied, the defendants may rebut the inference of collusion by presenting evidence” that negates the inference “that they entered into a ... conspiracy.

Williamson Oil Co. v. Philip Morris USA, 346 F. 3d 1287, 1301 (11th Cir. 2003); *In re Beef Indus. Antitrust Litig.*, 907 F.2d 510, 514 (5th Cir. 1990) (to prove an antitrust conspiracy through circumstantial evidence, a plaintiff “must first demonstrate that the defendants’ actions were parallel”); *In re Baby Food Antitrust Litig.*, 166 F.3d at 122 (“Once the plaintiffs have presented evidence of the defendants’ consciously parallel [conduct] and supplemented this evidence with plus factors, a **rebuttable** presumption of conspiracy arises.”).

32. At all times, however, “the ultimate burden of persuading the factfinder that a conspiracy exists is on the plaintiff.” *In re McWane, Inc.*, 155 F.T.C. at *226 (quoting *Kreuzer*, 735 F.2d at 1488); *City of Moundridge*, 2009 WL 5385975, at *4.

i. Parallel Conduct Is Required to Prove an Agreement Through Circumstantial Evidence

33. To find a pattern of parallel behavior, the finder of fact may not gloss over differences in Respondents’ conduct, chalk up deviations among the Respondents to “cheating,” or focus on broad generalities about the Respondents’ intentions. *Kleen Prods. LLC*, 910 F.3d at 936 (“[A] close look at the record reveals that the Purchasers overstate how coordinated these hikes actually were.”); *In re Baby Foot Antitrust Litig.*, 166 F.3d at 132 (while there were some parallel movements in list prices, “defendants’ prices were neither uniform nor within any agreed upon price range of each other.... [D]efendants’ marketing activities [thus] refute rather than support parallel pricing”); *In re McWane, Inc.*, 155 F.T.C. at *238-39, 258 (“Complaint Counsel’s

daisy chain of assumptions fail[ed] to support or justify an evidentiary inference of any unlawful agreement involving [Respondent], and the multilayered inference [was] rejected” where evidence did not show parallel conduct. “To the extent Complaint Counsel is arguing that circumstantial evidence of parallel ‘intentions’ proves actual parallel [conduct], the argument is rejected. It will not be presumed that intentions resulted in corresponding conduct.”).

34. Importantly, behavior “contrary to the existence of a conspiracy” – such as Respondents dealing with allegedly boycotted firms – precludes a finding of parallel conduct and undermines any circumstantial inference of a conspiracy. *Anderson News, L.L.C.*, 899 F.3d at 105 (finding no evidence of parallel conduct where “[m]any defendants ... undertook independent efforts to negotiate with” the allegedly boycotted plaintiff); *see also Valspar Corp.*, 873 F.3d at 196 n.7 (“We are mindful that a ‘failed attempt to fix prices’ is illegal ... but it is likewise significant that the alleged conspirators behaved contrary to the existence of a conspiracy.”); *Burtch*, 662 F.3d at 228 (evidence that one defendant is “declining all orders” while another is “extending [credit to] at least some” “fall[s] far short of demonstrating parallel behavior”).

35. Without parallel conduct, Complaint Counsel’s case collapses. *Anderson News, L.L.C.*, 899 F.3d at 106-12 (“Without ‘parallel acts’ to be reviewed ‘in conjunction with’ the circumstantial evidence, evidence supporting the presence of certain plus factors ... can provide little support for a finding of unlawful conspiracy.”); *Michelman*, 534 F.2d at 1036, 1043 (rejecting conspiracy claim where a defendant “pursued a substantially dissimilar and divergent course from the others”). Where the “dissimilarity between the conduct of the two defendants ... extended to such basic matters as their willingness to ship goods on credit[,] ... the credit policy terms of each[,] ... and the adjustment of quality claims[,]” the conduct was “diametrically opposed to and inconsistent with any ... combination or agreement.” *Michelman*, 534 F.2d at 1043.

36. Non-parallel conduct cannot be disregarded or explained away as evidence of “cheating” absent extrinsic evidence independently establishing the existence of a conspiracy. *In re McWane, Inc.*, 155 F.T.C. at *260 (“the cases” holding that an agreement can be inferred from “complaints about cheating” involved “independent proof of the underlying agreement allegedly ‘breached’”); *see also In re McWane, Inc.*, 155 F.T.C. at *241 (“to accept Complaint Counsel’s inference that any increase in Project Pricing during this period was the result of a collapsed conspiracy, rather than a common reaction to the competitive environment, would require presuming the existence of the conspiracy in the first instance, which is improper”); *Blomkest Fertilizer, Inc. v. Potash Corp. of Saskatchewan*, 203 F.3d 1023, 1033 (8th Cir. 2000) (“[A] litigant may not proceed by first assuming a conspiracy and then explaining the evidence accordingly.”).

37. Moreover, “consciously parallel behavior by competitors in a concentrated market without a meeting of the minds is not, by itself, unlawful.” *In re Benco Dental Supply Co.*, 2018 WL 6338485, at *19 n.13. Thus, “evidence of parallel behavior or even conscious parallelism alone, without more, is insufficient to establish a Section 1 violation....” *In re McWane, Inc.*, 155 F.T.C. at *225; *Twombly*, 550 U.S. at 553-54; *In re Benco Dental Supply Co.*, 2018 WL 6338485, at *5 (“In a concentrated market, evidence of parallel behavior by market participants, without more, is insufficient to establish a Section 1 violation.”).

ii. Plus Factors Capable of Distinguishing Between Lawful Interdependence and Unlawful Conspiracy Are Required

38. Even where the evidence shows that respondents engaged in parallel refusals to deal, such “evidence ... is insufficient to establish a Section 1 violation.” *In re Benco Dental Supply Co.*, 2018 WL 6338485, at *5. Rather, “to prove an oligopolistic conspiracy with proof of parallel behavior, that evidence ‘must go beyond mere interdependence’ and ‘be so unusual that

in the absence of an advance agreement, no reasonable firm would have engaged in it.” *Valspar Corp.*, 873 F.3d at 193 (quoting *In re Baby Food Antitrust Litig.*, 166 F.3d at 135).

39. To determine whether parallel conduct is so unusual that no firm would engage in it absent a pre-existing conspiracy, courts look to whether there are “plus” factors that render the existence of a conspiracy more probable than not. *In re McWane, Inc.*, 155 F.T.C. at *250 (“[T]o constitute a ‘plus’ factor evincing a conspiracy, [the] evidence must be more than ‘suggestive’ of a conspiracy. The inference of a conspiracy must be more likely than not.”). The “dispositive issue for determination,” therefore, “is whether the greater weight of the credible and probative evidence, with respect to the demonstrated parallel conduct and the demonstrated ‘plus’ factors, makes the inference of a preceding agreement more likely than not.” *In re McWane, Inc.*, 155 F.T.C. at *246.

40. “The plus factor analysis seeks to ensure that courts punish concerted action and not merely the ‘unilateral, independent conduct of competitors.’” *In re Benco Dental Supply Co.*, 2018 WL 6338485, at *7. While the “plus factor analysis” usually arises in pricing cases, it can also be “useful for a claim of conspiracy that involves ... putatively parallel refusals to bid for sales to certain types of customers.” *In re Benco Dental Supply Co.*, 2018 WL 6338485, at *7.

41. While there “is no exhaustive list of ‘plus’ factors[,]” they “[can be] grouped into the following three categories: (1) evidence that the alleged conspirator had a motive to enter into a ... conspiracy; (2) evidence that [it] acted contrary to its interest[]; and (3) evidence implying a traditional conspiracy.” *In re McWane, Inc.*, 155 F.T.C. at *244.

(A) To Constitute a Plus Factor, Change in Conduct Must be “Abrupt” or “Radical” and Tied to Competitor Communications

42. In determining whether the surrounding context makes an inference of a conspiracy more or less probable, particular attention is paid to whether there was a change in conduct following that suspect communication that would likely not have occurred absent a pre-existing agreement. *Kleen Prods. LLC*, 910 F.3d at 940 (discussing that an inference of conspiracy was more persuasive where, following suspect communications, one defendant took steps that “could not be undone easily”).

43. But to constitute a plus factor supporting an inference of conspiracy, “[a] change in industry practices must be ‘radical,’ or ‘abrupt.’” *Valspar Corp.*, 873 F.3d at 196 (quoting *In re Chocolate Confectionary Antitrust Litig.*, 801 F.3d at 410 and *Valspar Corp.*, 152 F. Supp. 3d 234, 252 (D. Del. 2016)) (finding no abrupt shift in behavior that could support a reasonable inference of a conspiracy where defendants’ conduct at issue was “consistent with how [an] industry has historically operated” and continued after the alleged conspiracy); *see also Kleen Prods. LLC*, 910 F.3d at 936 (change must be “abrupt”); *White*, 635 F.3d at 581 (Conduct that is consistent before, during, and after an alleged conspiracy cannot give rise to an inference of a conspiracy “because that factual context undermines any inference that the pricing behavior represents a sudden shift marking the *beginning* of a price-fixing conspiracy.”); *cf. In re Domestic Drywall Antitrust Litigation*, 163 F. Supp. 3d 175, 255-56 (E.D. Pa. 2016) (defendants’ sudden decision within weeks of each other to eliminate a “major competitive tool” of job quotes when they were a common industry feature was a “radical” and “abrupt” change supporting an inference of conspiracy); *Twombly*, 550 U.S. at 557 n.4 (to support an inference of a conspiracy the changes in conduct must be of the type that “would probably not result from chance, coincidence, independent responses to

common stimuli, or mere interdependence unaided by an advance understanding among the parties[,]” such as “complex and historically unprecedented changes in pricing structure made at the very same time by multiple competitors ... for no other discernable reason.”).

44. To determine whether there has been the type of “radical” or “abrupt” change in industry practice, the court must consider behavior before and after the alleged change. If the alleged behavior occurred “before the [alleged] period as well” as after the alleged change, there can be no inference of a conspiracy. *Kleen Prods. LLC*, 910 F.3d at 936-37 (“A continuation of a historic pattern – including of parallel [conduct] – does not plausibly allow one to infer the existence of a cartel.”); *see also In re Graphics Processing Units Antitrust Litig.*, 527 F. Supp. 2d at 1024 (dismissing conspiracy complaint and holding that allegations of conduct occurring after alleged conspiracy were insufficient where plaintiff failed to allege how it differed from conduct prior to alleged conspiracy).

45. The court must also consider the timing of the alleged change in relation to the alleged starting and ending points of the conspiracy. “Logic dictates that one cannot prove a curtailment or reduction in Project Pricing without proof of a *starting point* for comparison.” *In re McWane, Inc.*, 155 F.T.C. at *240. Any alleged change in conduct must also be viewed in relation to alleged concerted action and communications in furtherance of the alleged conspiracy. Where changes in conduct occurred prior to, or long after, a suspect communication or the start of the alleged conspiracy, such changes will not support an inference of a conspiracy. *In re McWane, Inc.*, 155 F.T.C. at *240-41; *Cosmetic Gallery, Inc.*, 495 F.3d at 54 (holding that “even if the action of not selling to [plaintiff] were parallel among distributors, [plaintiff’s] own evidence asserts and demonstrates [defendant] had determined not to sell to [plaintiff] ... from the outset, before any of the alleged acts took place ... negat[ing] awareness of parallel action....”).

46. Similarly, changes in conduct that are minor, non-uniform, or explained by extrinsic changes in market conditions also do not support an inference of a conspiracy. *Valspar Corp.*, 873 F.3d at 196 (noting that a mere “uptick in frequency of a pre-established industry practice” is far from the sort of “radical or abrupt change” necessary to “indicate conspiracy”); *Kleen Prods. LLC*, 910 F.3d at 936-37 (rejecting inference of conspiracy where “the shift [in defendant’s behavior] may be explained by external factors, such as the emergence from the economic downturn of 2008”).

47. Of course, conduct that is consistent before, during, and after an alleged conspiracy cannot give rise to an inference of a conspiracy. *White v. R.M. Packer Co.*, 635 F.3d 571, 581 (1st Cir. 2011) (“[P]ricing behaviors do not function as ‘plus factors’ when they are stable over time, because that factual context undermines any inference that the pricing behavior represents a sudden shift marking the beginning of a price-fixing conspiracy.”); *see also In re Chocolate Confectionary Antitrust Litig.*, 801 F.3d 383, 410 (3d Cir. 2015) (finding no abrupt shift in behavior that could support a reasonable inference of a conspiracy where defendants’ conduct at issue was “consistent with how [an] industry has historically operated” and continued after the alleged conspiracy); *Kleen Prod. LLC v. Int’l Paper*, 276 F. Supp. 3d 811, 826 (N.D. Ill. 2017), *aff’d sub nom. Kleen Prod. LLC v. Georgia-Pac. LLC*, 910 F.3d 927 (7th Cir. 2018) (finding that “the Court could not detect in Defendants’ fifteen price announcements any notable break with their prior practice. . . . The dearth of support on this point seriously weakens the inference of conspiracy.”); *Cosmetic Gallery, Inc. v. Schoeneman Corp.*, 495 F.3d 46, 54 (3d Cir. 2007) (affirming summary judgment where defendant’s decision not to sell to plaintiff had been made prior to any alleged agreement explaining that “[e]ven if the action of not selling to [plaintiff] were parallel among distributors,

[plaintiff's] own evidence asserts and demonstrates [defendant] had determined not to sell to [plaintiff] from the outset, before any of the alleged acts took place.”).

(B) Plus Factors that Merely Restate Oligopolistic Competition are Not Entitled to Significant Weight

48. In a concentrated market, plus factors that merely restate oligopolistic competition have little role to play. *In re McWane, Inc.*, 155 F.T.C. at *245 (“Because the factors of motive and actions contrary to interest may only restate the theory of interdependence among oligopolists ... evidence indicating an ‘actual, manifest agreement,’ is the key to a proper determination.”); *Valspar Corp.*, 873 F.3d at 196 (“In oligopolistic markets, ‘the first two factors [motive and actions against self-interest] largely restate the phenomenon of interdependence, [which] leaves traditional non-economic evidence of a conspiracy as the most important plus factor.”).

(1) Motive to Conspire

49. Evidence of a motive to conspire is a “background” plus factor that cannot establish a conspiracy on its own. *Blomkest*, 203 F.3d at 1043. Thus, motive is neither necessary nor sufficient to prove the existence of an agreement. *Blomkest*, 203 F.3d at 1043. In fact, where alleged co-conspirators “had no rational economic motive to conspire, and if their conduct is consistent with other, equally plausible explanations, the conduct does not give rise to an inference of conspiracy.” *Matsushita Elec. Indus., Co.*, 475 U.S. at 596-97 (“Lack of motive bears on the range of permissible conclusions that might be drawn from ambiguous evidence....”); *accord Cohlma v. St. John Med. Ctr.*, 693 F.3d 1269, 1284 (10th Cir. 2012); *see also First Nat’l Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 280 (1968) (refusal to deal could not support a finding of antitrust liability because the defendant lacked any rational motive to join the alleged boycott and defendant’s refusal to deal was consistent with its independent interest).

50. It is not enough to show that a respondent's profits increase by engaging in collective action. Rather, Complaint Counsel must show that the parallel behavior is unlikely to arise naturally absent an agreement, thereby creating a motive to violate the law. *In re McWane, Inc.*, 155 F.T.C. at *247 (“Even if McWane was motivated in part to increase profits, this is still a free country and ‘[i]n a free capitalistic society, all entrepreneurs have a legitimate understandable motive to increase profits,’ which does not, on its own, constitute a ‘plus factor’ indicating an unlawful agreement.”).

51. Evidence of a motive to conspire must be more than speculative. An alleged “‘hope’ that reduced competition ... might eventually work in defendants’ favor” requires “[t]he kind of broad inferences ... [that] are not appropriate....” *Anderson News, L.L.C.*, 899 F.3d at 102 (declining to adopt plaintiff’s expert’s suggestion “that reducing competition in the wholesaler market *could* result in higher prices for retailers” because “it does not show that reducing competition would in any way benefit or has already benefited defendant publishers”).

52. A motive to conspire will be “negated” where “the alleged agreement would harm the alleged conspirators” or a “plausible and justifiable reason for its conduct that is consistent with proper business practice” is shown. *Anderson News, L.L.C.*, 899 F.3d at 112.

53. Because firms in concentrated industries often employ a range of competitive strategies – such as “follow-the-leader” or “wait-and-see” – Complaint Counsel must show that such strategies are unavailable, unsuccessful, or unlikely to lead to the observed parallelism. That is because, where such strategies are viable, an “agreement is not necessary to achieve conscious parallelism,” and thus, to hold respondents liable in that setting would, “in effect, foist a nefarious motive upon the Suppliers merely because they conduct their business within an oligopoly market.” *In re McWane, Inc.*, 155 F.T.C. at *247, 267 (no inference of a conspiracy is warranted

where the conduct “is at least as consistent with oligopolistic, ‘follow-the-leader’ behavior, which is not illegal, as it is with an unlawful agreement,” since a “firm in a concentrated industry typically has reason to decide (individually) to copy an industry leader”); *see also In re McWane, Inc.*, 155 F.T.C. at *249 (“Where, as here, a ... decision can be easily changed if competitors do not follow, it is not irrational to proceed without advance assurances of competitor compliance.”); *Kleen Prods. LLC*, 910 F.3d at 938, 940 (“[F]lexible behavior” that could be “undone easily” in the event it did “not pa[y] off ... does not point towards ... a role in any conspiracy.”).

54. In an oligopoly, “motivation is ... synonymous with interdependence and therefore adds nothing....” *White v. R.M. Packer Co.*, 635 F.3d 571, 582 (1st Cir. 2011) (quoting 6 Areeda & Hovenkamp ¶ 1434(c)(1) at 269). For that reason, even if there is “evidence showing defendants have ‘a plausible reason to conspire,’” such evidence alone “does not create a triable issue as to whether there was a conspiracy.” *White*, 635 F.3d at 582; *see also In re Baby Food Antitrust Litig.*, 166 F.3d at 122 (“[C]onspiratorial motivation is ambiguous because it can describe mere interdependent behavior.... Thus, no conspiracy should be inferred from ambiguous evidence or from mere parallelism when defendants’ conduct can be explained by independent business reasons.”); *In re Musical Instruments & Equip. Antitrust Litig.*, 798 F.3d 1186, 1194-95 (9th Cir. 2015) (“‘[C]ommon motive to conspire’ simply restates that a market is interdependent (*i.e.*, that the profitability of a firm’s decisions regarding pricing depends on competitors’ reactions).”).

(2) Acts Against Self-Interest

55. Actions against a defendant’s economic self-interest are a less important plus factor because, like motive, they largely “restate interdependence” in the context of an alleged price fixing conspiracy. *In re Flat Glass*, 385 F.3d at 360-61.

56. “To constitute a ‘plus’ factor,” such acts must involve “proof that ‘each defendant ... would have acted unreasonably in a business sense if it had engaged in the challenged conduct unless that defendant had received assurances from the other defendants that they would take the same action.’” *In re McWane, Inc.*, 155 F.T.C. at *248 (quoting *Bolt v. Halifax Hosp. Med. Ctr.*, 891 F.2d 810, 826-27 (11th Cir. 1990)). “Proof of actions contrary to interest for ‘plus’ factor purposes means ‘showing that the defendants’ behavior would not be reasonable or explicable (*i.e.*, not in their legitimate economic self-interest) if they were not conspiring to ... restrain trade – that is, that the defendants would not have acted as they did, had they not been conspiring in restraint of trade.” *In re McWane, Inc.*, 155 F.T.C. at *248 (quoting *City of Tuscaloosa*, 158 F.3d at 569).

57. Complaint Counsel must show that Respondents’ actions did “not ... amount to good faith business judgment.” *Cayman Expl. Corp. v. United Gas Pipe Line Co.*, 873 F.2d 1357, 1361 (10th Cir. 1989). Because business judgment should not be lightly disturbed, the burden on Complaint Counsel here is “substantial” and “compel[s] them to produce evidence which ‘tends to exclude the possibility that the defendants were acting independently.’” *In re Chocolate Confectionary Antitrust Litig.*, 999 F. Supp. 2d 777, 791 (M.D. Pa. 2014), *amended*, 2014 WL 4104474 (M.D. Pa. 2014), *aff’d*, 801 F.3d 383 (3d Cir. 2015).

58. By definition, “[w]here there is an independent business justification for a defendant’s behavior,” there is no act against self-interest, and “an inference of conspiracy is not easily drawn.” *In re McWane, Inc.*, 155 F.T.C. at *253; *see also In re Citric Acid*, 191 F.3d at 1100 (rejecting plaintiff’s argument that an action was against defendant’s self-interest where “it *did* explicitly weigh the costs and benefits” of taking the action); *Alvord-Polk, Inc.*, 37 F.3d at 1014 (“[T]he absence of action contrary to one’s economic interest renders consciously parallel business behavior ‘meaningless, and in no way indicates agreement’....”).

59. Courts are particularly reluctant to second-guess a company's business judgment whether to pursue new opportunities, especially a company's *inaction*. See *In re Baby Food Antitrust Litig.*, 166 F.3d at 127 (holding that the court was "unwilling to question [defendant's] business judgment" where "the evidence reflect[ed] [defendant's] strategic planning as to whether and when to pursue particular business opportunities."); Brief for the United States as Amicus Curiae, Department of Justice, *Bell Atl. Corp. v. Twombly*, 2006 WL 2482696 at *21 (U.S.) (quoting Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law* ¶ 307d, at 155 (Supp. 2006)) ("Parallel inaction is even less suggestive of illicit agreement. In particular, 'parallel decisions by business firms not to enter new markets create no such inference.'... Thus, drawing inferences from what a business fails to do is a problematic exercise; one can analyze the harms and benefit of an action as a discrete matter, but the number of territories a business does not enter or products it does not offer is virtually infinite. Even the most vigorous rivals will end up not competing in some respects.").

(3) *Market Structure*

60. Because competition in an oligopolistic market can be equally consistent with natural, lawful behavior as with unlawful conspiracy, conspiracy cannot be inferred from evidence of market structure or interdependence. *Reserve Supply Corp.*, 971 F.2d at 50, 53 ("[T]he mere existence of an oligopolistic market structure in which a small group of manufacturers engage in consciously parallel pricing of an identical product does not violate the antitrust laws.... A firm in a concentrated industry typically has reason to decide (individually) to copy an industry leader."); *Clamp-All Corp. v. Cast Iron Soil Pipe Inst.*, 851 F.2d 478, 484 (1st Cir. 1988) ("One does not need an agreement to bring about this kind of follow-the-leader effect in a concentrated industry."); *In re Chocolate Confectionary*, 999 F. Supp. 2d at 790 ("The mere fact that a market may exhibit

oligarchic tendencies and characteristics is, without more, insufficient to establish antitrust liability.”); *In re Graphics Processing Units Antitrust Litig.*, 527 F. Supp. 2d at 1023 n.6 (dismissing case where the alleged facts showed nothing more than “a small number of firms [that] can affect the total market output and the market price, [making] firms’ ... decisions [] interdependent.”); *Burtch*, 662 F.3d at 227 (the “fact that market behavior is interdependent and characterized by conscious parallelism” is “legally insufficient”); *Reserve Supply Corp.*, 971 F.2d at 51 (“Interdependence ... is a *necessary* condition for inferring any conspiracy from parallelism but is not *sufficient* to infer a traditional conspiracy .”) (quoting 6 Phillip E. Areeda, *Antitrust Law* ¶ 1411 (1986)).

61. Accordingly, evidence of “high barriers to entry” and “highly inelastic demand” is just evidence of “hallmarks of oligopolistic markets susceptible to successful parallel pricing practices, but neither helps to distinguish between agreement and mere conscious parallelism as the root cause of those practices.” *White*, 635 F.3d at 582.

(4) *Applying Plus Factors to Alleged Boycotts of New Modes of Commerce*

62. Because firms have a unilateral incentive to resist engaging new modes of commerce that may threaten their existing business, evidence of such resistance does not create an inference of a conspiracy. As the Supreme Court explained, because “resisting competition is *routine market conduct* ... there is no reason to infer that the companies had agreed among themselves to do what was only natural anyway....” *Twombly*, 550 U.S. at 566 (rejecting claim where the complaint failed to allege that the “resistance to the upstarts was anything more than the natural, unilateral reaction of each [incumbent competitor] intent on keeping its regional dominance”).

63. The problem of inferring collusion from putatively parallel refusals to deal with new forms of commerce was aptly described in *Twombly*. There, the complaint alleged that incumbent phone companies (“ILECs”) faced competition from competitive local exchange carriers (“CLECs”). These CLECs provided consumers with phone services in competition with the incumbent firms. CLECs also paid for access as customers of the incumbent firms and presented a competitive threat to the incumbent firms, as well as a potential opportunity. The *Twombly* complaint alleged a conspiracy by the incumbent firms to deny access to competitive entrants and to not themselves enter each other’s territories as CLECs. The Supreme Court rejected the claim, noting that “there is no reason to infer that the companies had agreed among themselves to do what was only natural anyway....” *Twombly*, 550 U.S. at 566. The Court reasoned:

In the decade preceding the 1996 Act and well before that, monopoly was the norm in telecommunications, not the exception. The ILECs were born in that world, doubtless liked the world the way it was, and surely knew the adage about him who lives by the sword. Hence, a natural explanation for the noncompetition alleged is that the former Government-sanctioned monopolists were sitting tight, expecting their neighbors to do the same thing.

Twombly, 550 U.S. at 567-68. As such, there was “no need for joint” action and no basis for inferring a conspiracy. *Twombly*, 550 U.S. at 566.

64. In so ruling, *Twombly* also rejected the argument that the incumbents acted contrary to their self-interest by not interconnecting with the CLECs or expanding their territories. As the Court noted, “although the complaint says generally that the [incumbent firms] passed up ‘especially attractive business opportunities’ by declining to [expand outside their historic territories], it does not allege that [such] competition ... was potentially any more lucrative than other opportunities being pursued by the [defendants] during the same period....” *Twombly*, 550 U.S. at 569. And, in any event, “firms do not expand without limit and none of them enters every

market that an outside observer might regard as profitable, or even a small portion of such markets.” *Twombly*, 550 U.S. at 568.

65. As *Twombly* shows, a conspiracy cannot be inferred from respondents’ parallel failure to embrace a new method of doing business that threatens to cannibalize their existing business. Firms in concentrated industries can reasonably expect their rivals to feel similarly and avoid taking actions that would be detrimental to their existing way of doing business. As such, there would be neither a motive to conspire nor any act against self-interest by behaving in this manner. See *In re Ins. Brokerage Antitrust Litig.*, 618 F.3d at 349 (where defendants were reaping significant profits from their current business practices, it was natural for them to have “no desire to upset the apple cart”); *In re Interest Rate Swaps Antitrust Litig.*, 261 F. Supp. 3d 430, 464 (S.D.N.Y. 2017) (defendants had “good reason” to discourage “development of a new trading paradigm that threatened, some day, to cannibalize their trading profits”).

66. Numerous courts have applied this principle. In *In re Graphics Processing Units Antitrust Litigation*, for example, the court dismissed a case alleging an anticompetitive conspiracy because “defendants’ behavior could simply be consistent with conscious parallelism ... [and] simply may not have much of an incentive to cut prices or rush their new products to market.” *In re Graphics Processing Units Antitrust Litig.*, 527 F. Supp. 2d 1011, 1023 n.6 (N.D. Cal. 2007) (quoting 6 Areeda & Hovenkamp, *Antitrust Law* § 1410(b) (2d ed. 2000)) (firms will “hesitate to reduce prices at all’ ... [w]here a small number of firms can affect the total market output and the market price ... [because] ‘each knows that expanding its sales or lowering its price will reduce the sales of rivals, who will notice that fact, identify the cause, and probably respond with a matching price reduction.’”); see also, e.g., *Cosmetic Gallery, Inc.*, 495 F.3d at 54-55 (“[T]he simple fact that [plaintiff] wanted to buy product is not enough to show [defendant] acted contrary to his

economic interest[,]” as the argument “amounts to an assertion that its desire to buy product ... was automatically in [defendant’s] economic interest.”); *In re Citric Acid*, 191 F.3d at 1101 (finding concerns “that an excessively rapid expansion ... would undermine prices” and a desire “to avoid precipitating a costly price war” were legitimate explanations to “not expand even more rapidly”); *InterVest, Inc.*, 340 F.3d at 165 (“There are many reasons that a broker-dealer might independently choose not to partner with a fledgling start-up whose technology and business model remained unproven.”).

(C) Plus Factors Implying a Traditional Conspiracy

67. Because conduct in an oligopolistic setting “can be nearly indistinguishable from” a conspiracy, courts rely most heavily on “non-economic evidence [implying] a traditional conspiracy.” *See Valspar Corp.*, 873 F.3d at 191, 203 n.15.

68. Generally, courts require “proof that the defendants got together and exchanged assurances of common action or otherwise adopted a common plan even though” there may not be direct evidence of an actual agreement. *Valspar Corp.*, 873 F.3d at 193. Mere “awareness that [defendants] were engaging in conscious parallelism” does not suffice. *Valspar Corp.*, 873 F.3d at 193 n.3.

69. In making this determination, “particular attention, and weight, is accorded to whether or not the evidence shows: (1) a prior understanding” among the Respondents; (2) “a commitment to one another” to refrain from competing; and (3) a “restricted [sense of] freedom of action” because of the “obligation” that one Respondent owes to the others. *In re McWane, Inc.*, 155 F.T.C. at *246, 267 (rejecting conspiracy claim because “the evidence fails to demonstrate that [decisions] were made because of any understanding[,] ... perceived commitment,” or sense of “restricted freedom,” which are “the evidentiary hallmarks for proving

the required ‘actual, manifest agreement,’ especially in an oligopolistic market characterized by pricing interdependence”).

(1) Evidence Inconsistent with the Alleged Conspiracy Is Entitled to Significant Weight

70. Evidence that a Respondent carefully considered the impact of a course of action on its volume, prices, and profits suggests the *absence* of any pre-existing commitment, lack of freedom of action, or sense of obligation to its competitors. *See, e.g., In re Baby Food Antitrust Litig.*, 166 F.3d at 132 (Defendants’ internal “memoranda reveal that [they] engaged in independent pricing determined by market conditions at the time, profit margins, and the effect of price increases or decreases on sales volume and distribution. They provide a striking insight into the defendants’ marketing strategy which negates the plaintiffs’ inference of conscious parallelism.”); *see also Market Force Inc.*, 906 F.2d at 1174 (evidence of “independent business reasons ... [which were] not economically irrational” defeated conspiracy claim).

71. Similarly, conduct that is inconsistent with the alleged conspiracy also suggests the absence of any pre-existing commitment, lack of freedom of action, or sense of obligation to competitors. *Valspar Corp.*, 873 F.3d at 196 n.7, 198 (“We are mindful that a ‘failed attempt to fix prices’ is illegal ... but it is likewise significant that the alleged conspirators behaved contrary to the existence of a conspiracy.”); *see also In re McWane, Inc.*, 155 F.T.C. at *259 (rejecting conspiracy claim, in part, because the documentary evidence stated that one alleged conspirator was “using ‘project pricing to get every order,’ which is inconsistent with the existence of an agreement ... to curtail Project Pricing.”).

72. Thus, an alleged boycott cannot stand where a defendant did precisely what the plaintiff claimed the defendant had promised not to do. *Orson, Inc. v. Miramax Film Corp.*, 79

F.3d 1358, 1368 (3d Cir. 1996) (alleged refusal to grant first-run licenses to plaintiff failed where “the evidence is to the contrary; [plaintiff] received a first-run license from Miramax”); *see also In re Baby Food Antitrust Litig.*, 166 F.3d at 127 n.9 (dismissing claim that Heinz’s decision not to enter the Chicago market was the result of an unlawful “truce,” given Heinz’s “formal, written proposal to [a] large Chicago supermarket chain [which] rejected the proposal”); *see In re Citric Acid*, 191 F.3d at 1101 (finding “the factual context renders [plaintiff’s] claims implausible” where defendant’s decision to reduce expansion was six months *before* plaintiff alleged the defendant joined the conspiracy); *Michelman*, 534 F.2d at 1044-46 (an allegation of a concerted boycott fails against a defendant whose “shipments to [the allegedly boycotted entity] increased substantially during th[e] period”).

(2) Evidence of Internal Discussions About Competitors Are Not Entitled to Significant Weight

73. Because “competitors in concentrated markets watch each other like hawks[,]” internal discussions about what other competitors might be doing do not give rise to an inference of agreement. *In re Text Messaging Antitrust Litig.*, 782 F.3d at 875. In *In re Text Messaging Antitrust Litigation*, plaintiffs thought they had a “smoking gun” in a pair of emails between executives of T-Mobile that read, “Gotta tell you but my gut says raising messaging pricing again is nothing more than a price gouge on consumers. I would guess that consumer advocates groups are going to come after us at some point.... I know the other guys are doing it but that doesn’t mean we have to follow,” and calling T-Mobile’s latest price increase “colusive [*sic*] and opportunistic.” 782 F.3d at 872. However, the Seventh Circuit rejected this evidence, finding “[n]othing in any of [these] emails suggests that [the executive] believed there was a conspiracy....” *In re Text Messaging Antitrust Litig.*, 782 F.3d at 873 (Posner, J.); *see also In re Baby Food*

Antitrust Litig., 166 F.3d at 126 (“the mere possession of” a competitor’s “memoranda” is not “evidence of concerted action to fix prices ... [because] it makes common sense to obtain as much information as possible of the pricing policies and marketing strategy of one’s competitors”); *In re Citric Acid*, 191 F.3d at 1103 (“[P]ossession of competitor price lists ... does not, at least in itself, tend to exclude legitimate competitive behavior.”); *In re K-Dur Antitrust Litig.*, 2016 WL 755623, at *22 (“[A]wareness of a competitor’s actions is not enough to create an inference of a conspiracy.”).

74. Internal communications discussing what a firm’s “peers” are doing “do not provide any evidence of *interfirm* communications” and “at most ... suggest a high level of *interfirm awareness*.” *Mayor & City Council of Balt., Md.*, 709 F.3d at 139; *see also Valspar Corp.*, 873 F.3d at 199-200 (noting that “internal e-mails” only “show that the competitors were aware of the phenomenon of conscious parallelism and implemented pricing strategies in response to it.”). For instance, internal emails speculating on what other competitors are doing in the marketplace – such as “all major global players have been very disciplined with pricing implementation up to this point” – are only “superficially” helpful to a plaintiff and only “show that the competitors were aware of the phenomenon of conscious parallelism[.]” which “makes sense” in an oligopoly. *Valspar Corp.*, 873 F.3d at 200.

**(3) Competitor Communications Unrelated
to the Alleged Conspiracy Are Not
Entitled to Significant Weight**

75. While evidence of competitor communications can in appropriate circumstances constitute a plus factor, not all communications are probative of a conspiracy. Communications among individuals *allegedly* involved in reaching an unlawful agreement are not relevant if the evidence shows that such communications related to topics other than the alleged restraint of trade.

See, e.g., In re Baby Food Antitrust Litig., 166 F.3d at 133 (“evidence of social contacts and telephone calls [is] insufficient to exclude the possibility that the defendants acted independently”); *In re Chocolate Confectionary*, 999 F. Supp. 2d at 804 (“social contacts between competitors without more are not unlawful”); *Holiday Wholesale Grocery Co. v. Philip Morris Inc.*, 231 F. Supp. 2d 1253, 1308 (N.D. Ga. 2002) (“opportunities to conspire” was not a plus factor in a case where there were social contacts between tobacco company executives “such as golf, dinner, lunches, trade association conferences, and teleconferences”), *aff’d sub nom. Williamson Oil Co. v. Philip Morris USA*, 346 F.3d 1287 (11th Cir. 2003); *Hinds Cty. Miss. v. Wachovia Bank N.A.*, 708 F. Supp. 2d 348, 362 (S.D.N.Y. 2010) (“mere presence at industry associations and meetings” insufficient to establish agreement); *LaFlamme v. Societe Air Fr.*, 702 F. Supp. 2d 136, 148 (E.D.N.Y. 2010) (“[M]embership and participation in a trade association alone does not give rise to a plausible inference of illegal agreement.”).

(4) Context Determines the Weight Afforded to Ambiguous Competitor Communications

76. The weight afforded to other communications among individuals allegedly involved in reaching an unlawful agreement – such as communications that relate to subject matter of the alleged restraint (but do not rise to the level of direct evidence of an agreement) or are devoid of content – depends on the context and other circumstantial evidence surrounding such communications. *Anderson News, L.L.C.*, 899 F.3d at 104 (noting that “defendants’ conduct and communications must be evaluated in context and with the ‘overall picture’ in mind”). In *Anderson*, plaintiff pointed to “the increased level of interfirm communications” during the relevant period, but the court gave them little weight, noting “what exactly they signify eludes us.” *Anderson News, L.L.C.*, 899 F.3d at 113.

77. The court must be careful not to resort to impermissible speculation, or to first assume the existence of a conspiracy and then interpret ambiguous evidence in light of such an assumption. *In re McWane, Inc.*, 155 F.T.C. at *253 (where witnesses “denied having any recollection of the telephone calls and/or denied any recollection of what was discussed[,]” it “would be pure speculation ... to simply assume” that unlawful agreements were reached); *see also In re McWane, Inc.*, 155 F.T.C. at *258 (“Complaint Counsel’s daisy chain of assumptions fails to support or justify an evidentiary inference of any unlawful agreement ... and the multilayered inference is rejected.”); *In re McWane, Inc.*, 155 F.T.C. at *255 (“Complaint Counsel next contends that [the suppliers] participated in an ‘information exchange’ in order to ‘detect cheating’... and that, therefore, this constitutes a ‘plus’ factor.... Importantly, however, for this evidence to be material under Complaint Counsel’s argument, it must first be assumed that there was, in fact, an [unlawful] agreement ... and that [Respondent] was a party to it[,]” which cannot “be presumed.”); *Valspar Corp.*, 873 F.3d at 198 (“A litigant may not proceed by first assuming a conspiracy and then explaining the evidence accordingly.”).

(D) Expert Testimony is Not Entitled to Significant Weight in Applying Plus Factors

78. Though of little relevance in concentrated markets, an economist may be asked to opine on economic plus factors. *See In re Domestic Drywall Antitrust Litig.*, 163 F. Supp. 3d 175, 254 (E.D. Pa. 2016) (“In § 1 Sherman Act cases involving oligopolies, the most important evidence will generally be non-economic evidence that there was an actual, manifest agreement not to compete.”).

79. Federal Rule of Evidence 702 requires that trial judges perform a “gatekeeping role” regarding expert testimony. *Daubert v. Merrell Dow Pharm.*, 509 U.S. 579, 597 (1993). “This entails a preliminary assessment of whether the reasoning or methodology underlying the

testimony is scientifically valid and of whether that reasoning or methodology properly can be applied to the facts in issue.” *Daubert*, 509 U.S. at 592-93.

80. In evaluating expert testimony, the court must consider whether: (1) the expert is qualified; (2) the expert’s testimony is reliable; and (3) the expert’s testimony is helpful to the trier of fact, *i.e.*, it must fit “the facts of the case....” *See Daubert*, 509 U.S. at 591; *United States v. Schiff*, 602 F.3d 152, 173 (3d Cir. 2010) (courts must consider “whether [the] expert testimony proffered ... is sufficiently tied to the facts of the case that it will aid the jury in resolving a factual dispute.”).

81. Even with a qualified expert, “an opinion [may] be excluded not because it is necessarily incorrect, but because it is not sufficiently reliable and ... too likely to lead the factfinder to an erroneous conclusion.” *In re TMI Litig.*, 193 F.3d 613, 666 (3d Cir. 1999), *amended*, 199 F.3d 158 (3d Cir. 2000). In determining whether expert testimony is sufficiently reliable, courts must determine whether it applies “the same level of intellectual rigor that characterizes the practice of an expert in the relevant field.” *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 152 (1999).

82. The Court must “ensur[e] that an expert’s testimony both rests on a reliable foundation and is relevant to the task at hand.” *Amorgianos v. Nat’l R.R. Passenger Corp.*, 303 F.3d 256, 265 (2d Cir. 2002); *In re Paoli R.R. Yard PCB Litig.*, 35 F.3d 717, 744 (3d Cir. 1994).

83. In “assessing the reliability of an expert opinion,” a “resort to common sense is not inappropriate.” *Johnson Elec. N. Am., Inc. v. Mabuchi Motor Am. Corp.*, 103 F. Supp. 2d 268, 286 (S.D.N.Y. 2000). Thus, “expert testimony should be excluded if it is speculative or conjectural, or if it is based on assumptions that are so unrealistic and contradictory as ... to be in

essence an apples and oranges comparison....” *In re Vitamin C Antitrust Litig.*, 2012 WL 6675117, at *3 (E.D.N.Y. 2012).

84. Courts routinely exclude experts who fail to properly analyze data to prove the trends they are offered to establish. *See In re Graphics Processing Units Antitrust Litig.*, 253 F.R.D. 478, 496 (N.D. Cal. 2008) (noting that an economic expert “may not meet his burden by simply stating that ‘economic theory’ dictates that prices for retail and wholesale purchases generally go up together.”); *Concord Boat Corp. v. Brunswick Corp.*, 207 F.3d 1039, 1056-57 (8th Cir. 2000) (excluding expert opinion for failure to “incorporate all aspects of the economic reality” and “ignor[ing] inconvenient evidence.”).

85. Rule 702 requires that “expert testimony rest on ‘knowledge,’ a term that ‘connotes more than subjective belief or unsupported speculation.’” *Highland Capital Mgmt., L.P. v. Schneider*, 379 F. Supp. 2d 461, 469, 473 n.2 (S.D.N.Y. 2005). An expert thus cannot speculate about the “state of mind and motivations of certain parties,” or the “intent ... of parties....” To do so would be pure speculation and outside the expert’s expertise. *Highland Capital Mgmt, L.P.*, 379 F. Supp. 2d at 469-70; *see also United States v. Mejia*, 545 F.3d 179, 192 (2d Cir. 2008) (expert cannot “stray from the scope of his expertise”); *In re TMI Litig.*, 193 F.3d at 670 (affirming exclusion of an expert’s testimony based on what the expert described as “an assumption ... not an unreasonable one....”); *Chemipal Ltd. v. Slim-Fast Nutritional Foods Int’l, Inc.*, 350 F. Supp. 2d 582, 593 (D. Del. 2004) (explaining that to allow expert testimony based solely on an expert’s untested belief “would eviscerate the standards set by *Daubert* and Federal Rule of Evidence 702.”).

86. “[I]t is critical that an expert’s analysis be reliable at every step” because any “step that renders the analysis unreliable under the *Daubert* factors renders the expert’s testimony inadmissible.” *Amorgianos*, 303 F.3d at 267.

87. Expert testimony is useful only “as a guide to interpreting market facts, but it is not a substitute for them.” *Brooke Grp. Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 242 (1993).

88. If there is “too great an analytical gap between the data and the opinion proffered[,]” the opinion is properly excluded because “nothing in either *Daubert* or the Federal Rules of Evidence requires a district court to admit opinion evidence that is connected to existing data only by the *ipse dixit* of the expert.” *Gen. Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997).

89. Analyses that represent nothing more than a “compartmentalized view” based on a “modicum of data not fully representative” of sales at issue are insufficient. *In re Class 8 Transmission Indirect Purchaser Antitrust Litig.*, 140 F. Supp. 3d 339, 353-56 (D. Del. 2015) (“In no way does an analysis of one percent compel the conclusion that plaintiffs can proffer sufficient common evidence to prove the alleged overcharges were passed through to indirect purchasers.”), *aff’d in part, vacated in part*, 679 F. App’x 135 (3d Cir. 2017).

90. With respect to benchmarks, courts have held that “[w]hen constructing a benchmark statistic, the regression analyst may not ‘cherry-pick’ the time frame or data points so as to make her ultimate conclusion stronger.” *Reed Constr. Data, Inc. v. McGraw-Hill Cos.*, 49 F. Supp. 3d 385, 400 (S.D.N.Y. 2014), *aff’d*, 638 F. App’x 43 (2d Cir. 2016). “Rather, some passably scientific analysis must undergird the selection of the frame of reference.” *Reed Constr. Data, Inc.*, 49 F. Supp. 3d at 400.

91. Notably, “serious consideration” cannot be given to an expert whose “opinion was based on the express assumption that the defendants had agreed to conspire.” *In re Baby Food Antitrust Litig.*, 166 F.3d at 134. In *Baby Food*, the court found the expert’s improper assumption in the expert’s deposition testimony. The expert testified,

If Heinz or Beech-Nut determined their sales independently, free of any restraint imposed by a conspiratorial agreement, the total sales of baby food would be higher and the prices lower than would be obtained under an agreement. It is precisely this specter of lower prices and profit margins from independent behavior which provides the incentive for the parties to enter into and maintain a price-fixing agreement.

166 F.3d at 134. Given this, the court noted that the expert’s “opinion is nothing more than an abstract statement based on ‘economic theory’ that the interest in enhancing profits motivated the defendants to conspire.” *In re Baby Food*, 166 F.3d. at 134.

92. Expert opinion is properly excluded where it “merely recite[s] what is on the face of documents produced during discovery” and “merely interpret[s] defendants’ statements.” *Anderson News, L.L.C.*, 899 F.3d at 112; *see also Newell Rubbermaid Inc. v. Raymond Corp.*, 676 F.3d 521, 527 (6th Cir. 2012) (affirming district court’s decision to exclude expert opinion, and explaining that the “[r]ed flags that caution against certifying an expert include reliance on anecdotal evidence, improper extrapolation, failure to consider other possible causes, lack of testing, and subjectivity.”); *Va. Vermiculite, Ltd. v. W.R. Grace & Co.-Conn. & Historic Green Springs, Inc.*, 98 F. Supp. 2d 729, 740 (W.D. Va. 2000) (excluding expert report because “[d]eriving analyses in the antitrust field from anecdotal evidence ... is a basis for manifest error”); *JMJ Enters., Inc. v. Via Veneto Italian Ice, Inc.*, 1998 WL 175888, at *6 (E.D. Pa. 1998) (“Expert testimony that is based on speculation or unrealistic assumptions is not helpful.”), *aff’d*, 178 F.3d 1279 (3d Cir. 1999).

iii. Rebutting a Circumstantial Inference of a Conspiracy

93. If the evidence of parallelism and plus factors creates an inference of a conspiracy, Respondents may rebut the presumption with evidence that they acted independently. *Todorov v. DCH Healthcare Auth.*, 921 F.2d 1438, 1456 n.30 (11th Cir. 1991) (to “ensure[] that unilateral or procompetitive conduct is not punished or deterred[,]” “‘plus factors’ only create a rebuttable presumption of a conspiracy which the defendant may defeat with his own evidence”); *In re Baby Food Antitrust Litig.*, 166 F.3d at 122.

94. Evidence that a Respondent acted independently includes (i) the sworn testimony of its employees attesting to that fact; (ii) evidence that it made business decisions based on legitimate factors, such as the likely effect of a course of action on its prices, profits, or sales volume, on its competitors’ behavior, and on the structure of the market; and (iii) evidence that it took steps inconsistent with the alleged conspiracy. *In re Citric Acid*, 191 F.3d at 1105-06 (holding evidence “considered as a whole,” could not support an inference that Cargill joined the conspiracy where the evidence included sworn testimony of independent action, consideration of the costs and benefits of a course of action, and actions inconsistent with the alleged conspiracy); *Valspar Corp.*, 873 F.3d at 200 (evidence of “internal deliberation” over a course of action “may negate an inference of conspiracy”); *Wilcox Dev. Co. v. First Interstate Bank of Or., N.A.*, 605 F. Supp. 592, 594 (D. Or. 1985) (“evidence of lawful business reasons for parallel conduct will dispel any inference of a conspiracy”), *aff’d sub nom. Wilcox v. First Interstate Bank of Or.*, 815 F.2d 522 (9th Cir. 1987); *see also In re Folding Carton Antitrust Litig.*, 1980 WL 1872, at *3 (N.D. Ill. 1980) (finding plaintiffs’ inferences insufficient to establish a plus factor where there was uncontroverted employee testimony supporting defendants’ explanation).

95. Because the ultimate burden of proof rests with Complaint Counsel, a Respondent only bears the burden of production with respect to showing that it acted independently. It remains Complaint Counsel's burden to show that the greater weight of the probative and credible evidence demonstrates that it is more likely than not that each Respondent participated in an unlawful conspiracy. *In re McWane, Inc.*, 155 F.T.C. at *246; *see also City of Moundridge*, 429 F. Supp. 2d at 130 (“At all times, of course, the ultimate burden of persuading the factfinder that a conspiracy exists is on the plaintiff.”).

4. Anticompetitive Effect

96. Because the evidence does not establish that Respondents engaged in a conspiracy, there is no need to address anticompetitive effects – which Complaint Counsel bears the burden of proving by substantial evidence. *FTC v. Ind. Fed'n of Dentists*, 476 U.S. 447, 460-61 (1986); *cf. Cal. Dental Ass'n.*, 224 F.3d at 952 (where a prior opinion did find an unlawful agreement, the court still vacated the FTC's decision for failure to consider procompetitive attributes of restriction, concluding that the FTC had failed to demonstrate substantial evidence of anticompetitive effect, and stating that “our rule-of-reason case law usually requires the antitrust plaintiff to show some relevant data from the precise market at issue in the litigation...”).

97. Complaint Counsel has failed to establish that the alleged agreement should be considered so likely to cause harm to competition that it should be treated as unlawful *per se*. *See, e.g., Texaco Inc. v. Dagher*, 547 U.S. 1, 5 (2006) (“[p]er se liability is reserved for only those agreements that are ‘so plainly anticompetitive that no elaborate study’” is needed) (quoting *National Society of Professional Engineers v. United States*, 435 U.S. 679, 692 (1978); *National Collegiate Athletic Ass'n v. Board of Regents*, 468 U.S. 85, 103-104 (1984)). As a result, Complaint Counsel has failed to establish any basis for departing from the rule of reason – the “prevailing”

standard of evaluation of a restraint on competition. *See, e.g., Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 49, 59 (1977); *Texaco, Inc. v. Dagher*, 547 U.S. 1, 5 (2006) (“[T]his Court presumptively applies rule of reason analysis....”); *Business Electronics Corp. v. Sharp Electronics Corp.*, 485 U.S. 717, 723 (1988) (“Ordinarily, whether particular concerted action violates § 1 of the Sherman Act is determined through case-by-case application of the so-called rule of reason.”); *Id.* at 726 (“[T]here is a presumption in favor of a rule-of-reason standard.”).

98. Complaint Counsel failed to provide any basis for considering the alleged agreement to be inherently suspect or to apply a truncated rule of reason analysis. Complaint Counsel provided no “experience of the market” or “empirical evidence” that would permit “a confident conclusion” regarding the effects of the alleged agreement. *California Dental Ass’n v. Fed. Trade Comm’n*, 526 U.S. 756, 776, 781 (1999).

99. The rule of reason involves an examination of the “demonstrable economic effect” to a defined antitrust market caused by the restraint in question. *See, e.g., Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 49, 59 (1977); *Texaco, Inc. v. Dagher*, 547 U.S. 1, 5 (2006) (“[T]his Court presumptively applies rule of reason analysis, under which antitrust plaintiffs must demonstrate that a particular contract or combination is in fact unreasonable and anticompetitive before it will be found unlawful.”). Complaint Counsel failed to establish that the alleged agreement caused anticompetitive effects pursuant to this standard.

5. Remedies

100. Pursuant to Section 5 of the FTC Act, upon determination that the challenged practice is an unfair method of competition, the Commission “shall issue ... an order requiring such person ... to cease and desist from using such method of competition or such act or practice.” 15 U.S.C. § 45(b); *FTC v. Nat’l Lead Co.*, 352 U.S. 419, 428 (1957). While “the Commission has

considerable discretion in fashioning an appropriate remedial order,” the order must “bear[] a reasonable relationship to the act or practice found unlawful.” *In re McWane, Inc.*, 2014 WL 556261, at *39 (citing *FTC v. Ruberoid Co.*, 343 U.S. 470, 473 (1952); *Rubbermaid, Inc. v. FTC*, 575 F.2d 1169, 1174 (6th Cir. 1978)); *see also FTC v. Colgate-Palmolive Co.*, 380 U.S. 374, 394-95 (1965) (“The propriety of a broad order depends upon the specific circumstances of the case, but the courts will not interfere except where the remedy selected has no reasonable relation to the unlawful practices found to exist.”); *Jacob Siegel Co. v. FTC*, 327 U.S. 608, 612-13 (1946) (same).

101. Complaint Counsel bears the burden of showing that an injunction is warranted. *Borg-Warner Corp. v. FTC*, 746 F.2d 108, 110 (2d Cir. 1984); *TRW, Inc. v. FTC*, 647 F.2d 942, 954 (9th Cir. 1981).

102. Before imposing a prospective remedy “to obtain injunctive relief against illegal conduct that has been discontinued, the moving party must show that ‘there exists some cognizable danger of recurrent violation, something more than the mere possibility which serves to keep the case alive.’” *Borg-Warner Corp.*, 746 F.2d at 110 (reversing a cease and desist order on Section 8 and Section 5 claims where, “[c]ontrary to the Commission’s conclusion, we do not think complaint counsel carried the burden of showing that there was a ‘cognizable danger of recurrent violation’ in this case.”); *United States v. W. T. Grant Co.*, 345 U.S. 629, 633 (1953) (same); *TRW, Inc.*, 647 F.2d at 954 (setting aside a prospective remedy where the record facts were “not enough” to demonstrate “cognizable danger” of repetition: “while [the court] cannot say that it is ‘absolutely clear’ that repetition will not occur, [it] can and must say there is simply nothing to suggest a ‘cognizable danger’ of repetition....”).

E. Application of Law to Fact

103. Complaint Counsel failed to satisfy their burden of proof with respect to Counts I, II, or III of the Complaint with respect to Respondents Henry Schein, Inc.; Patterson Companies, Inc.; or Benco Dental.

104. Complaint Counsel failed to prove by a preponderance of the evidence that Schein participated in any contract, combination, or conspiracy with either Patterson or Benco to refuse to do business with, or provide discounts to, buying groups.

105. Complaint Counsel failed to prove by a preponderance of the evidence that Patterson participated in any contract, combination, or conspiracy with either Schein or Benco to refuse to do business with, or provide discounts to, buying groups.

106. Complaint Counsel failed to prove by a preponderance of the evidence that Benco participated in any contract, combination, or conspiracy with either Schein or Patterson to refuse to do business with, or provide discounts to, buying groups.

107. Complaint Counsel failed to prove a single, overarching conspiracy among Benco, Patterson, and Schein to refuse to do business with, or provide discounts to, buying groups.

108. Complaint Counsel failed to present any direct evidence of Schein's participation in any alleged contract, combination, or conspiracy with Patterson or Benco to not do business with, or provide discounts to, buying groups.

109. Complaint Counsel failed to present any direct evidence of Patterson's participation in any alleged contract, combination, or conspiracy with Schein or Benco to not do business with, or provide discounts to, buying groups.

110. Complaint Counsel failed to present any direct evidence of Benco's participation in any alleged contract, combination, or conspiracy with Schein or Patterson to not do business with, or provide discounts to, buying groups.

111. Each piece of evidence Complaint Counsel presents as "direct evidence" requires inferences in order to reach the conclusion that Schein participated in an unlawful agreement; as such, none of Complaint Counsel's evidence qualifies as "direct evidence."

112. Each piece of evidence Complaint Counsel presents as "direct evidence" requires inferences in order to reach the conclusion that Patterson participated in an unlawful agreement; as such, none of Complaint Counsel's evidence qualifies as "direct evidence."

113. Each piece of evidence Complaint Counsel presents as "direct evidence" requires inferences in order to reach the conclusion that Benco participated in an unlawful agreement; as such, none of Complaint Counsel's evidence qualifies as "direct evidence."

114. The sworn denials of an agreement by each of the witnesses alleged to have knowledge of the alleged agreement, including Mr. Sullivan, Mr. Cohen, and Mr. Guggenheim (the three individuals Complaint Counsel alleges were involved in reaching agreement), constitute direct evidence of the content of the communications to which they were a party. Such denials are entitled to weight.

115. Dr. Marshall's conflicting interpretations of emails, and his insistence that he had "the correct interpretation," deserve no weight. This is especially true where participants on the emails provided contradictory interpretations than those reached by Dr. Marshall under oath – testimony which Dr. Marshall conceded he did not review.

116. Complaint Counsel failed to adduce circumstantial evidence sufficient to prove by a preponderance of the evidence that Schein participated in an unlawful agreement. Rather, the greater weight of the evidence shows that Schein acted independently.

117. Complaint Counsel failed to adduce circumstantial evidence sufficient to prove by a preponderance of the evidence that Patterson participated in an unlawful agreement. Rather, the greater weight of the evidence shows that Patterson acted independently.

118. Complaint Counsel failed to adduce circumstantial evidence sufficient to prove by a preponderance of the evidence that Benco participated in an unlawful agreement. Rather, the greater weight of the evidence shows that Benco acted independently.

119. Complaint Counsel failed to show that Schein, Patterson, and Benco engaged in parallel conduct. The evidence showed that Schein did business with numerous buying groups before, during, and after the alleged conspiracy period, whereas Patterson rarely worked with them and Benco did not work with them as a matter of policy – indeed, Schein engaged with buying groups that Patterson and/or Benco turned down.

120. Complaint Counsel has cited, as proof of the alleged parallel conduct, Respondents' responses to the Kois Buyers Group, Smile Source, and the Georgia Dental Association. (CC's Pre-Trial Br. at 37). But Respondents' responses to the Kois Buyers Group were each different. Respondents' Patterson's and Benco's responses to Smile Source differed from Schein, which chose to pursue Smile Source's business. Similarly, Respondents each responded differently to the Georgia Dental Association, which in any event occurred after the alleged conspiracy period.

121. Complaint Counsel presented no evidence at trial that Schein, Patterson, or Benco engaged in parallel conduct "so unusual that in the absence of an advance agreement, no reasonable firm would have engaged in it." *See In re Baby Food*, 166 F.3d at 135.

122. Complaint Counsel's failure to show parallel conduct between Schein, on the one hand, and Patterson and Benco on the other, negates the inference that Schein participated in a conspiracy to not do business with, or provide discounts to, buying groups.

123. Complaint Counsel's failure to show parallel conduct between Patterson, on the one hand, and Schein and Benco on the other, negates the inference that Patterson participated in a conspiracy to not do business with, or provide discounts to, buying groups.

124. Complaint Counsel's failure to show parallel conduct between Benco, on the one hand, and Schein and Patterson on the other, negates the inference that Benco participated in a conspiracy to not do business with, or provide discounts to, buying groups.

125. Complaint Counsel's attempt to disregard Schein's dealings with buying groups as "cheating" is rejected. Complaint Counsel failed to introduce independent evidence sufficient to justify a finding of a conspiracy, or any evidence indicative of cheating (such as efforts to keep negotiations and business with buying groups secret), and as such, it would be improper for the finder of fact to transform evidence of non-parallel conduct into evidence of "cheating."

126. The testimony of Complaint Counsel's expert, Dr. Marshall, that Schein's dealings with Smile Source and other buying groups represent instances of cheating is unreliable, inadmissible under *Daubert* and F.R.E. 702, and, if admissible, entitled to little or no weight. Dr. Marshall's opinion improperly assumes the existence of a conspiracy, and failed to offer any basis, other than his own *ipse dixit*, for distinguishing between parallel conduct and cheating. *See Gen. Elec. Co.*, 522 U.S. at 146. Moreover, his opinion is not helpful to the trier of fact because it is based merely on the interpretation of the factual record, and not any economic analysis, or specialized knowledge or skill. *Highland Capital Mgmt., L.P.*, 379 F. Supp. 2d at 473 n.2; *see also Waymo LLC v. Uber Techs., Inc.*, 2017 WL 6887043, at *5 (N.D. Cal. 2017) (granting motion

to exclude an expert witness where “[t]here is no reason for [the expert] to serve as a mouthpiece for arguments that [plaintiff’s] lawyers can make.”).

127. Complaint Counsel’s failure to adduce evidence of parallel conduct warrants a finding in Respondents’ favor.

128. Even if parallel conduct had been established, Complaint Counsel has also failed to introduce evidence of plus factors giving rise to an inference that Schein participated in an unlawful agreement.

129. Even if parallel conduct had been established, Complaint Counsel has also failed to introduce evidence of plus factors giving rise to an inference that Patterson participated in an unlawful agreement.

130. Even if parallel conduct had been established, Complaint Counsel has also failed to introduce evidence of plus factors giving rise to an inference that Benco participated in an unlawful agreement.

131. Complaint Counsel failed to introduce any evidence showing that Schein’s conduct went beyond mere interdependence and was so unusual that a reasonable firm would have been unlikely to have engaged in it absent an agreement. This failure warrants dismissal of Complaint Counsel’s claims against Schein.

132. Complaint Counsel failed to introduce any evidence showing that Patterson’s conduct went beyond mere interdependence and was so unusual that a reasonable firm would have been unlikely to have engaged in it absent an agreement. This failure warrants dismissal of Complaint Counsel’s claims against Patterson.

133. Complaint Counsel failed to introduce any evidence showing that Benco’s conduct went beyond mere interdependence and was so unusual that a reasonable firm would have been

unlikely to have engaged in it absent an agreement. This failure warrants dismissal of Complaint Counsel's claims against Benco.

134. Complaint Counsel failed to show that Schein acted contrary to its unilateral self-interest. Rather, the evidence shows that Schein had independent reasons for doing business with some buying groups and declining to do business with other buying groups. As the largest distributor, Schein had the most to lose, and the least to gain, by doing business with such groups. Its deliberate strategy of choosing a select group of buying groups to enter into relationships with, while rejecting others, was rational in light of the fact that (i) many (or most) buying groups did not present sufficient opportunities for incremental business to offset the risks of cannibalization or the internal or external conflicts arising from doing business with such groups; (ii) buying groups remained a small portion of the market; (iii) Schein's largest competitors were not actively doing business with such groups; and (iv) should circumstances change, Schein could quickly enter into or expand its relationships with buying groups. As such, Schein did not face significant risk by not embracing all buying groups.

135. Complaint Counsel failed to show that Patterson acted contrary to its unilateral self-interest. Patterson's choice in 2013 to have its new Special Markets division focus only on the most promising DSOs, and not on GPOs, was rational and in Patterson's interest. After having nearly ceded the DSO segment to Schein and Benco, Patterson invested millions to catch up, creating a new business infrastructure to handle DSOs' high-volume, centralized ordering. Because GPOs do not order product centrally, or at all, Patterson Special Markets' central ordering capabilities were not suited to serving them. Nor were GPOs as attractive a business opportunity as DSOs, and it was in Patterson's interest to ensure that its Special Markets initiative remained focused on the most lucrative opportunities, to justify its investment. Because this decision by

Patterson was supported by an independent business justification, there is no basis to apply the actions-against-self-interest plus factor.

136. Patterson Dental's choices not to engage with specific buying groups were also justifiable. Patterson Dental evaluated each buying group opportunity on its merits—it met with buying groups, listened to their proposals, and determined one-by-one whether these proposals made business sense for Patterson. Groups that could not deliver volume commitments or presented incoherent, dishonest, or outlandish proposals were not attractive business partners to Patterson. Thus, Patterson chose not to do business with these groups. Because this decision by Patterson was supported by an independent business justification, there is no basis to apply the actions-against-self-interest plus factor.

137. Complaint Counsel also failed to show that Benco acted contrary to its unilateral economic self-interest. Benco's value proposition was based on staying close to its customers and not letting any other entity or middlemen come between it and its customers. Benco also saw no benefit to doing business with buying groups, as they could not guarantee volume or reduce Benco's costs to serve their members. Thus, from 1996 on, Benco followed a policy of not offering discounts to buying groups. Complaint Counsel acknowledges that Benco followed this policy for 15 years before the beginning of the alleged conspiracy period, and Complaint Counsel do not contest that Benco pursued this unilateral policy in its own self-interest.

138. Benco followed exactly the same policy during the alleged conspiracy period – nothing changed. Benco's commitment to staying close to its customers remained unchanged; Benco's reasons for not offering discounts to buying groups remained unchanged; and Benco's conduct toward buying groups remained unchanged. Throughout the conspiracy period, Benco's

actions were driven by the identical economic incentives and unilateral self-interest as its conduct for the previous 15 years.

139. The testimony of Complaint Counsel's expert, Dr. Marshall, that Schein acted contrary to its self-interest is unreliable, inadmissible under *Daubert*, and, if admissible, entitled to little or no weight. *First*, Dr. Marshall relies on numerous factual assumptions that are not supported by the record. *Second*, Dr. Marshall failed to analyze the relevant question of whether Schein would make more money or less money had it behaved differently. *Third*, Dr. Marshall improperly extrapolates from his analyses of two unique buying groups (which are themselves flawed) to draw conclusions about buying groups generally. Such extrapolations are not warranted based on the record evidence and are improper under well-established precedent.

140. Dr. Marshall's testimony that Patterson acted contrary to its self-interest is improper under *Daubert* and Federal Rule of Evidence 702. Dr. Marshall testified that he did not study the proposals buying groups that approached Patterson made—whether these proposals were coherent or outlandish, whether these proposals were even made by dentists rather than, as in one case, a veterinarian, or, in another case, a discovered liar with no dental background, or even whether these groups approached Patterson at all during the alleged conspiracy period.

141. Also, in opining that Patterson acted contrary to its self-interest in not doing business with buying groups, Dr. Marshall studied only “a small fraction” of dentists – three-tenths of 1 percent or three one-thousandths of independent dentists. Dr. Marshall's explanation – that he had no additional data available to him—is plainly insufficient.

142. Finally, Dr. Marshall's case studies do not meet the standards for reliability. One of Dr. Marshall's case studies is limited to a time period one year *prior to* when Patterson allegedly joined a conspiracy, and another covers only the time period two years *after* the alleged conspiracy

supposedly ended. And all of his case studies include time in the benchmark periods (*i.e.*, outside the alleged conspiracy period). As such, they fail to distinguish between lawful and allegedly unlawful behavior as required.

143. Dr. Marshall provided no explanation for why Benco's policy of not offering discounts to unaffiliated buying groups – which it pursued without interruption for 19 years from 1996 to 2015 – suddenly became contrary to Benco's unilateral economic self-interest in 2011. Dr. Marshall's studies underlying his opinion that Benco acted contrary to its unilateral economic self-interest were based on multiple errors and cannot be sustained. Dr. Marshall's theoretical basis was incorrect; he followed no accepted methodology; he studied only a tiny fraction of dentists; he studied only two buying groups, neither of which was representative; he studied third party distributors, but not Benco; his "after-the-fact" review failed to account for risk and uncertainty; his study improperly mixed data from different years; he failed to account for administrative fees and rebates; he relied on unsupported assumptions; he failed to control for other factors; and – most importantly – he failed to perform a counter-factual analysis. A proper counter-factual analysis reveals that Benco had far superior prospects pursuing its own business plan and customers than dealing with buying groups, and it was in Benco's unilateral economic self-interest to use its resources to pursue its own business.

144. Complaint Counsel also failed to show that Schein had a motive to enter into a conspiracy with Patterson and/or Benco. While the evidence shows that Schein believed that margins might erode if it did business with certain buying groups, such evidence by itself, does not establish a motive to conspire. This is normal, independent competitive behavior and also warrants dismissal of Complaint Counsel's claims against Schein.

145. Complaint Counsel also failed to show that Patterson viewed buying groups as a threat during the alleged conspiracy and thus did not have a motive to conspire about them with its arch-rivals. Particularly given buying groups' minimal market presence in early 2013, Patterson would have stood to gain little by departing from its daily competition with Schein and Benco to join an agreement over a non-material customer segment. Patterson's conduct towards buying groups is consistent with other, equally plausible explanations supported in the record (evaluating them individually and rejecting most as unattractive).

146. Complaint Counsel also failed to establish that Benco had a motive to conspire with Schein or Patterson. Benco was substantially different from either Schein or Patterson. It was much smaller than Schein or Patterson and, importantly, as of 2011, it was focused on completing its expansion across the continental United States. And as the report and testimony of Dr. Johnson confirm, Benco had attractive growth possibilities pursuing its own business opportunities. Regardless whether Schein and Patterson, with their large size and established nationwide footprints, chose to do business with buying groups, Benco's motive was to continue to pursue its own strategy. Benco representatives sometimes expressed disdain or even antipathy for buying groups, as they would for any entity that interfered with the customer relationship but offered little if any value, but this is hardly evidence of motive for entering into a conspiracy.

147. Complaint Counsel's argument, and the testimony of Complaint Counsel's expert, Dr. Marshall, that the market structure or other industry characteristics make the existence of an unlawful agreement likely is rejected. Such industry characteristics are incapable of distinguishing between lawful interdependence and unlawful agreement. Indeed, the same industry characteristics that Complaint Counsel claims makes a conspiracy more likely, also make a conspiracy less likely, as they may obviate the need to enter into any conspiracy at all. Dr.

Marshall failed to introduce any economic analysis, beyond his mere *ipse dixit*, that market structure makes lawful interdependent conduct, or conscious parallelism, unlikely.

148. Complaint Counsel failed to introduce sufficient non-economic evidence of a traditional conspiracy to carry its burden of showing that it is more likely than not that Schein participated in an unlawful agreement.

149. Complaint Counsel failed to introduce sufficient non-economic evidence of a traditional conspiracy to carry its burden of showing that it is more likely than not that Patterson participated in an unlawful agreement.

150. Complaint Counsel failed to introduce sufficient non-economic evidence of a traditional conspiracy to carry its burden of showing that it is more likely than not that Benco participated in an unlawful agreement.

151. The sworn denials of the witnesses, including the witnesses who were allegedly involved in reaching agreement or implementing it, weigh significantly against the finding of a conspiracy. The court finds these sworn denials to be credible.

152. Complaint Counsel did not introduce evidence sufficient to show that (i) there was a prior understanding between Schein and any other Respondent; (ii) Schein made any commitment to any other Respondent to refrain from doing business with, or offer discounts to, buying groups; or (iii) felt a restricted sense of freedom, or an obligation to any other Respondent, with respect to Schein's dealings with buying groups.

153. Complaint Counsel did not introduce evidence sufficient to show that (i) there was a prior understanding between Patterson and any other Respondent; (ii) Patterson made any commitment to any other Respondent to refrain from doing business with, or offer discounts to,

buying groups; or (iii) felt a restricted sense of freedom, or an obligation to any other Respondent, with respect to Patterson's dealings with buying groups.

154. Complaint Counsel did not introduce evidence sufficient to show that (i) there was a prior understanding between Benco and any other Respondent; (ii) Benco made any commitment to any other Respondent to refrain from doing business with, or offer discounts to, buying groups; or (iii) felt a restricted sense of freedom, or an obligation to any other Respondent, with respect to Benco's dealings with buying groups.

155. There is substantial evidence in the record that Schein acted inconsistently with any alleged agreement to not do business with, or offer discounts to, buying groups. Such evidence negates any inference of a conspiracy. Such evidence, including evidence that Schein did business with a number of buying groups during the alleged conspiracy period, and that it devoted substantial resources to evaluating and negotiating with other buying groups, refutes, rather than supports, any assertion that Schein had an understanding with, made commitments to, or felt a restricted sense of freedom or an obligation to, any other Respondent.

156. There is substantial evidence in the record that Patterson acted inconsistently with any alleged agreement not to do business with, or offer discounts to, buying groups. Patterson did do business with at least two buying groups during its alleged participation in a conspiracy to boycott buying groups. Patterson also met with and evaluated numerous buying groups during its alleged participation in a conspiracy to boycott buying groups – a waste of time and effort if it was bound by agreement not to work with buying groups.

157. The evidence of competitor communications cited by Complaint Counsel, either by itself or in conjunction with other record evidence, does not give rise to an inference of a conspiracy.

158. The majority of competitor communications cited by Complaint Counsel relate to legitimate or irrelevant topics, such as sports, social commentary, or unrelated business dealings or disputes. Such evidence is not probative, and is entitled to little or no weight.

159. The competitor communications cited by Complaint Counsel that are devoid of content or only ambiguously refer to buying groups (or a specific buying group) also do not give rise to an inference that Respondents' conduct was more likely than not the product of an agreement. Absent additional circumstances surrounding a specific communication, it would be improper to speculate that an agreement was reached during any such communication. Nor did Complaint Counsel adduce evidence of suspicious circumstances surrounding such communications to support an inference of a conspiracy.

160. Complaint Counsel did not show any rapid or abrupt change in conduct that would give rise to an inference of a conspiracy.

161. There is no evidence that Patterson made any "radical" or "abrupt" changes with respect to buying groups. Instead, Complaint Counsel's evidence only showed that Patterson was generally skeptical of buying groups before and after the alleged conspiracy period, as well as during. Complaint Counsel also showed that, two years after the alleged conspiracy ended, Patterson sought to work with Smile Source and was working with a couple of buying groups. Finally, though Dr. Marshall "presume[d]" it without evidence, there is no evidence that Patterson's approach to New Mexico Dental Cooperative changed after Patterson allegedly entered the conspiracy – the evidence is instead that Patterson's approach changed before it is alleged to have joined. This "plus factor" therefore does not support a reasonable inference of a conspiracy; instead it weighs against the existence of a conspiracy.

162. Complaint Counsel did not show that Benco changed its conduct as a result of any communications with any other Respondent. As noted above, Benco did not change its conduct from 1996 – when it formally articulated its policy of not dealing with middlemen that come between it and its customers – until 2015. For 19 years, it did not bid for the business of or offer discounts to buying groups. And since 2015, it has offered discounts to a buying group on only one occasion – the Elite Dental Alliance.

163. In the latter half of 2015, Benco’s long-time Success Partner Cain Watters proposed to Benco that they establish a jointly-controlled buying group. As an experimental exception to its policy, Benco agreed with Cain Watters to form Elite Dental Alliance. This arrangement did not represent a change in Benco’s conduct; rather, Benco was willing to enter into this relationship because unique features of Elite Dental Alliance set it apart from typical buying groups and resolved many of the concerns that Benco had with buying groups. Because Cain Watters wielded considerable influence over member dentists and dentists would qualify for discounts only if they met minimum purchase commitments, EDA could drive additional volume. Because Benco had exclusive rights to serve as distributor to EDA and could control the selection of manufacturers, Benco had no concern that EDA would steer members to another distributor or source of supply. And because Benco would share in the profits of EDA, the cost of the discounts offered to EDA would be offset. These unique features of EDA made it more like a DSO than a buying group, and they were the only reason Benco was willing to offer discounts to EDA.

164. Complaint Counsel did not show that Schein changed its conduct following any communication between Schein and any other Respondent. Complaint Counsel’s citation to a March 27, 2013 text from Mr. Cohen to Mr. Sullivan, in which Mr. Cohen indicated that it was going to bid for ADC because it was not a buying group, suggests, at most, a one-way information

exchange from Benco to Schein. It does not suggest the existence of a pre-existing agreement, or even an invitation to collude. To draw the inference from this fact that Schein conspired with Benco – let alone that it did so from some undefined point in 2011 – would be impermissible speculation.

165. The fact that Schein also bid on the ADC group in 2013 also does not show a *change* in conduct. Rather, the evidence shows that Schein continued to evaluate *whether* to submit a bid both before and after Mr. Cohen's texts, and that it did so based on legitimate, independent business reasons. Even if, as Complaint Counsel argues, Schein knew of Benco's plans, as a result of Mr. Cohen's text and factored that into its calculus on whether to bid for the ADC business, such communication does not show that Schein agreed to *refrain* from doing business with, or offering discounts to, buying groups.

166. Complaint Counsel also failed to show that Schein rapidly or abruptly changed its conduct at the start or at the end of the alleged conspiracy, or in relation to any alleged conspiratorial communication. As an initial matter, Complaint Counsel failed to satisfy its burden of establishing the beginning and endpoint of the alleged conspiracy through probative and credible extrinsic evidence. As such, Complaint Counsel failed to provide the Court with a basis for comparing Schein's conduct before and after any particular point in time.

167. The Court rejects Complaint Counsel's assertion that structural changes should be measured against the conspiracy start and end dates that Complaint Counsel *alleges*. To do so, would require engaging in improper post-hoc rationalization of the evidence, and to improperly assume the existence of the conspiracy when interpreting the relevant evidence. Additionally, Complaint Counsel's allegations of the start date have been a moving target. Such inconsistencies only highlight the ambiguity of the record, which Complaint Counsel has not overcome. *See*

Anderson News, L.L.C., 899 F.3d at 105 n.4 (affirming summary judgment for defendants where plaintiff “shifts away from the [alleged start date] when it is convenient ... [and] these inconsistencies highlight the fundamental ambiguity of the record....”).

168. Even if the Court were to accept Complaint Counsel’s *allegations* for purposes of determining the endpoints of the conspiracy, Complaint Counsel failed to show that Schein’s conduct changed. The evidence shows that Schein negotiated and did business with, and offered discounts to, buying groups before, after, and during the alleged conspiracy period. The evidence also shows that Schein had a consistent, and justifiable, skepticism of buying groups that long predated the alleged conspiracy period and continued long after. The evidence also shows that Schein continued to do business with buying groups, and even entered into new buying groups, during the alleged conspiracy period. The evidence also shows that Schein took steps, and invested resources, to improve its ability to identify the buying groups that made business sense for it, and to deal with such groups in a fair and consistent manner. Such evidence refutes, rather than supports, Complaint Counsel’s claim that there were structural breaks indicative of a conspiracy.

169. To the extent the record evidence does support an inference of a conspiracy, contrary to the Court’s findings, the Court further finds that Schein has introduced sufficient evidence to rebut any such presumption. For the reasons cited above, the preponderance of the evidence, viewed in its totality, shows that Schein acted independently, and that it did not enter into or participate in any agreement with any other Respondent to not do business with, or offer discounts to, buying groups.

170. To the extent the record evidence does support an inference of a conspiracy, contrary to the Court’s findings, the Court further finds that Patterson has introduced sufficient evidence to rebut any such presumption. For the reasons cited above, the preponderance of the

evidence, viewed in its totality, shows that Patterson acted independently, and that it did not enter into or participate in any agreement with any other Respondent to not do business with, or offer discounts to, buying groups.

171. To the extent the record evidence does support an inference of a conspiracy, contrary to the Court's findings, the Court further finds that Benco has introduced sufficient evidence to rebut any such presumption. For the reasons cited above, the preponderance of the evidence, viewed in its totality, shows that Benco acted independently, and that it did not enter into or participate in any agreement with any other Respondent to not do business with, or offer discounts to, buying groups.

172. Finally, the record contains no evidence that the alleged agreement not to work with buying groups could recur. Rather, Complaint Counsel claims that Respondents' alleged unlawful conduct ended *four years ago*, and the record shows that Patterson, Schein, and Benco today work with buying groups.

Accordingly, no remedy in this case is warranted, and all Counts against Schein, Patterson, and Benco are dismissed.

Dated: April 11, 2019
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2019, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

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/s/ Owen Masters

CERTIFICATE OF ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed documents that is available for review by the parties and the adjudicator.

April 11, 2019

By: /s/ Owen Masters

In the Matter of Benco Dental Supply Co., Henry Schein, Inc. and Patterson Companies, Inc.
 FTC Docket No. 9379

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John Johnson	Benco Expert	4772:14-4933:16	4844:15 4865:12 4922:05	4845:01-4854:12 4866:01-4872:18 4923:01-4927:18	02/07/19	Volume 17
Trevor Maurer	Smile Source President	4935:10-5018:09	4952:21 5006: 19	4953:01-4960:03 5007:01-5016:14	02/07/19	Volume 17
Lawrence Wu	Patterson Expert	5019:10-5189:25	5107:21	5108:01-5178:03	02/07/19 02/08/18	Volume 17-18
Kathleen Titus	Schein Director of Group Practices (Mid-Market Division)	5190:12-5341:14	N/A	N/A	02/08/19	Volume 18
Dennis Carlton	Schein Expert	5349:13-5471:04	N/A	N/A	02/14/19	Volume 19
Richard Johnson	Klear Impakt Part Owner	5478:10-5525:06	5500:13 5519:18	5501:01-5502:12 5520:01-5524:18	02/15/19	Volume 20
Joe Cavaretta	Vice President of Sales for Henry Schein Dental	5525:13-5562:10	5556:12 5629: 18 5658: 24	5557:01-5565:15 5630:01-5631:13 5660:01-5661:07	02/15/19	Volume 20

In the Matter of Benco Dental Supply Co., Henry Schein, Inc. and Patterson Companies, Inc.
 FTC Docket No. 9379
Respondents' Joint Exhibit Index

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0001	4/23/2008	Excel re: "SCH08"		4504 07-14	N/A		
RX0002	3/16/2009	Email from T. Sullivan to S. Anderson re: Allan Bloom		4504:07-14	4322:25-4324:09		
RX0003	4/29/2009	Excel re: "SCH09"		4504 07-14	N/A		
RX0004	6/24/2009	Email re: "Fw: Field Correspondence"		4504:07-14	N/A		
RX0006	12/5/2009	Email re: "Advantage Dental opportunity for you to discuss in St. Paul"		4504:07-14	N/A		
RX0007	12/7/2009	Email re: "Re: Advantage Dental opportunity for you to discuss in Saint Paul"		4504:07-14	N/A		
RX0008	12/7/2009	Email re: "Re: Advantage Dental opportunity for you to discuss in Saint Paul"		4504:07-14	1857:04-1858:04		
RX0009	12/22/2009	Email re: "Re: Pricing/Schein"		4504 07-14	N/A		
RX0010	3/31/2010	Email re: "Price Class Change form"		4504 07-14	1850:01-1852:11		
RX0011	4/30/2010	Excel re: "SCH10"		4504 07-14	N/A		
RX0012	9/22/2010	Email re: "Fw: Sirona- Galileos - Patterson Pricing - **VIP**"		4504 07-14	N/A		
RX0013	9/22/2010	Email re: "Fw: Fwd: advice from Bill G."		4504:07-14	N/A		
RX0014	1/11/2011	Email re: "New Email Address for Price Class Changes"		4504 07-14	N/A		
RX0015	5/5/2011	Excel re: "sch11"		4504 07-14	N/A		
RX0016	5/16/2011	Email re: "RE: sales tracking q2"		4504 07-14	N/A		
RX0017	5/23/2011	Email re: "Fw: RFP Info"		4504 07-14	N/A		
RX0018	6/8/2011	Memorandum re: "FY12 COMMISSION PLAN"		4504 07-14	N/A		
RX0019	8/17/2011	Email re: "Fw: I-Pad Schein"		4504 07-14	N/A		
RX0020	8/20/2011	Email re: "Re Trouble in Paradise"		4504:07-14	1488:16 2802:23-2805:24 3629:24-3632:06 3665:13-3667:08		
RX0022	9/6/2011	Email re: "Slides for Sirona/Equipment/Board Review"		4504:07-14	N/A		
RX0024	11/17/2011	Email re: "Destroy after reading..."		4504 07-14	N/A		
RX0026	1/30/2012	Email re: "FSC - Operation Dental Storm - KICK OFF!!!!"		4504:07-14	N/A		
RX0027	2/7/2012	Email re: "Fw: FYI"		4504 07-14	N/A		
RX0029	3/8/2012	Email re: "Florida Dental Association Inquiry"		4504:07-14	N/A		
RX0031	3/16/2012	Email re: "Board PPT"		4504 07-14	N/A		
RX0032	3/27/2012	Email re: "Congrats"		4504 07-14	N/A		
RX0033	4/27/2012	Excel re: "sch12"		4504 07-14	N/A		
RX0034	4/29/2012	Report re: "Summary of the Fiscal 2013 Sales Commission Program"		4504 07-14	N/A		
RX0035	5/31/2012	Letter re: "Letter Agreement (Distributorship)"		4504 07-14	N/A		
RX0036	6/14/2012	Email re: "Merch Sales"		4504 07-14	3804:12-3807:05 4331:08-4332:25		
RX0039	8/28/2012	Email re: "Dental Practice Management Project - Phases 1, 2, and 3 Report and Power Point"		4504 07-14	N/A		
RX0040	9/8/2012	Email re: "Re: 1st draft...Version 2"		4504:07-14	N/A		
RX0041	9/24/2012	Email re: "FW: PHX: price class change - Wang"		4504 07-14	N/A		
RX0042	10/19/2012	Email re: "Between us"		4504 07-14	N/A		
RX0043	10/23/2012	PowerPoint re: "Patterson Dental - Dental Practice Management Segment Project Report by Michele Perpich"		4504 07-14	1582:12-1583:03		
RX0045	11/3/2012	Email re: "CRET Follow Up"		4504 07-14	N/A		
RX0046	11/14/2012	Email re: "Strategic Direction Meeting Notes --November 5-7"		4504 07-14	1438:21-1473:05 1779:04-1783:17 3594:15-3619:25		
RX0047	11/19/2012	Email re: "RE: Patterson Companies CEO Elected Chairman of the Board Of the Dental Trade Alliance. (web)"		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0048	1/6/2013	Email re: "Chuck Cohen posted a microblog in @[Sales/Marketing Team - Cross Functional Team]. Starting text: @Sales/Marketing Team - Cross Functional Team]"		4504 07-14	942:03-944:24		
RX0050	1/18/2013	Email re: "Things in Pricing"		4504 07-14	N/A		2018.10.30
RX0051	1/21/2013	Email re: "(DTA) Executive Committee Mtg. in June"		4504:07-14	N/A		
RX0052	1/23/2013	Email re: "American Dental Hygienists' Association"		4504:07-14	N/A		
RX0053	1/23/2013	Email re: "American Dental Hygienists' Association"		4504:07-14	N/A		
RX0055	2/7/2013	Email re: "Board Update on Medical Device Tax Repeal Legislation"		4504 07-14	N/A		
RX0057	2/11/2013	Email re: "Chaska meeting agenda sign-off discussion + other items"		4504 07-14	N/A		
RX0058	2/14/2013	Email re: "Dinner Tuesday Evening after Board Meeting"		4504:07-14	N/A		
RX0059	2/15/2013	Email re: "RE: Expiring PartnerSharing rates"		4504 07-14	N/A		2018.10.30
RX0060	2/15/2013	Email re: "Re: Fw: price class change"		4504 07-14	1740:12-1741:08		
RX0061	2/18/2013	Email re: "Fw: 444200322 Smallwood Prison dental services"		4504:07-14	1489:07-1491:03 1516:01-1516:14		
RX0062	2/19/2013	Email re: "Fw: DPM Project Final Word doc"		4504:07-14	N/A		
RX0063	2/19/2013	PowerPoint re: "Patterson Companies DPM Project Phases 1-3 Presentation.pptx"		4504 07-14	N/A		
RX0064	2/22/2013	Email re: "Re: Patterson Results"		4504 07-14	953:11-955:10		
RX0066	2/27/2013	Email re: "**Confidential: Re: Fw: Scanned image from Patterson Dental"		4504 07-14	N/A		
RX0067	2/27/2013	Notes re Atlantic Dental Care		4504 07-14	N/A		
RX0068	3/4/2013	Email re: "Re: Special Market Account"		4504 07-14	N/A		
RX0069	3/8/2013	Email re "Board Material - Final"		4504 07-14	N/A		
RX0070	3/12/2013	Email re: "Re: Rumor Mill Stuff"		4504 07-14	4321:03-4322:24		
RX0071	3/14/2013	Email re: "Re: Sales to Groups - for Board Presentation"		4504:07-14	N/A		
RX0072	3/15/2013	Email re: "Re: Sales to Groups - for Board Presentation"		4504:07-14	N/A		
RX0073	3/15/2013	Email re: "Sales to Groups - for Board Presentation"		4504:07-14	N/A		
RX0074	3/18/2013	Email re "Planning ppt"		4504 07-14	N/A		2018.10.30
RX0075	3/22/2013	Email re: "Fw: Equipment worksheet"		4504 07-14	N/A		
RX0076	3/27/2013	Email re: "Fw: CDA Endorsement of Purelife"		4504:07-14	N/A		
RX0077	4/1/2013	Email re: "Fw: CDA Endorsement of Purelife"		4504:07-14	N/A		
RX0078	4/1/2013	Email re: "Fw: CDA Endorsement of Purelife"		4504:07-14	N/A		
RX0079	4/19/2013	Email re: "Re: FIRST CALL NOTES re: Patterson & Sirona"		4504:07-14	N/A		
RX0080	4/19/2013	Email re: "FIRST CALL NOTES re: Patterson & Sirona"		4504:07-14	N/A		
RX0081	4/24/2013	Email re: "Fwd: John Hill - Price Class Change"		4504:07-14	1741:12-1742:11		
RX0082	4/27/2013	Report re: "Summary of the Fiscal 2014 Sales Commission Program"		4504 07-14	N/A		2018.10.30
RX0083	5/5/2013	Excel re: "Top 1000 - Patterson v. Schein"		4504 07-14	N/A		
RX0085	5/17/2013	Email re: "Re: Special Markets"		4504 07-14	N/A		
RX0086	5/18/2013	Email re: "Re: Special Markets"		4504 07-14	N/A		
RX0088	5/28/2013	Email re: "Fw: Strategic Questions"		4504 07-14	N/A		
RX0089	5/28/2013	Email re: "Fw: Price Class"		4504 07-14	N/A		
RX0091	6/6/2013	Email re: "Fw: OKC - Price Class Change - Julie Speights (344200077)"		4504 07-14	1744:18-1745:08		
RX0092	6/7/2013	Email re: "Special Markets"		4504 07-14	N/A		
RX0093	6/14/2013	Email re: "Re: Adec Cabinets in branch #191"		4504:07-14	1267:15-1268:22		2018.10.30
RX0094	6/19/2013	Email re: "Fwd: Price Class Changes"		4504 07-14	1745:09-1746:17		
RX0095	6/28/2013	Email re: "ADC Landy conversation, please read"		4504:07-14	N/A		
RX0096	7/9/2013	Email re: "FW: FIRST CALL NOTES re: Patterson"		4504 07-14	N/A		
RX0097	7/10/2013	PowerPoint re: "2014 Business Planning - Special Markets Director's Meeting"		4504 07-14	N/A		
RX0099	7/29/2013	Email re "Re: Fw: [FWD: Dr. Reid Stone Cost Analysis.xls]"		4504:07-14	3438:16-3442:25		
RX0101	8/2/2013	Email re: "Confidential - Meeting will be set up in a week or two"		4504 07-14	N/A		2018.10.30
RX0102	8/2/2013	Email re: "Fw: GPO Request"		4504 07-14	N/A		
RX0103	8/2/2013	Email re: "Re: Fw GPO Request"		4504 07-14	N/A		
RX0106	8/6/2013	Email re: "Re: TDA"		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0107	8/7/2013	Calendar Invite re: "Invitation: DTA Call/10:30AM Central Time (Aug 7 10:30 AM CDT)"		4504 07-14	N/A		
RX0109	8/16/2013	CONCEPT CHARTER Special Markets (PDSI)		4504:07-14	N/A		
RX0110	8/19/2013	Email re: "FW: ORIGINAL: CDA Supply Analysis Patterson v Schein 07-24-2013 xlxs"		4504 07-14	N/A		
RX0113	9/3/2013	Email re: "PSM definition"		4504 07-14	N/A		
RX0114	9/3/2013	Definition & Guiding Principles of SM.doc		4504:07-14	N/A		
RX0116	9/4/2013	Email re: "mtg with Patterson Special Markets"		4504 07-14	N/A		
RX0117	9/4/2013	Report re: "Patterson Dental Dental Practice Management Segment Project Report"		4504 07-14	N/A		
RX0118	9/4/2013	Email re: "Special Markets Announcement"		4504 07-14	N/A		
RX0119	9/4/2013	Memorandum re: "Patterson Special Markets (PSM) Definition"		4504 07-14	N/A		
RX0121	9/17/2013	Email re: "Fw: Price Class Change"		4504 07-14	N/A		
RX0122	9/26/2013	Email re: "Re: Chesapeake Update"		4504 07-14	N/A		
RX0123	9/27/2013	Email re: "quick 5 minutes to chat sometime today?"		4504:07-14	N/A		
RX0125	10/7/2013	Email re: "Dental Supplies Store for Texas Dental Association Members"		4504 07-14	N/A		
RX0126	10/8/2013	Email re: "Re: Competitive pressures with Council Connections"		4504 07-14	N/A		
RX0128	10/11/2013	Email re: "Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0129	10/12/2013	Email re: "Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0130	10/15/2013	Email re: "Re: TDA Perks Program"		4504 07-14	N/A		2018.10.30
RX0132	10/16/2013	Email re: "ReFwd 2014 Texas Meeting - Exhibitor Newsletter (October)"		4504 07-14	N/A		
RX0133	10/16/2013	Email re: "Re: DLN Colorado Board Minutes & Updates"		4504:07-14	N/A		
RX0134	10/16/2013	Email re: "Re: Fw: PRICE CLASS REQUEST - 728 Parkview Dental"		4504 07-14	1746:18-1747:11		
RX0135	10/18/2013	Email re: "TDA Perks Supplies"		4504 07-14	N/A		
RX0136	10/18/2013	Email re: "TDA Perks"		4504 07-14	N/A		
RX0137	10/18/2013	Email re: "TDA Perks"		4504 07-14	N/A		
RX0138	10/18/2013	Email re: "TDA Perks Supplies"		4504 07-14	N/A		
RX0139	10/22/2013	Email re: "Re: SourceOne"		4504 07-14	N/A		
RX0140	10/22/2013	Email re: "TDA Perks Supplies"		4504 07-14	N/A		
RX0141	10/22/2013	Email re: "Re eFax message from 8177316497 - 2 page(s), Caller-ID 817-731-6497 "		4504 07-14	N/A		
RX0142	10/23/2013	Email re: "TDA continued"		4504 07-14	N/A		
RX0143	10/23/2013	Email re: "TDA Perks Supplies"		4504 07-14	N/A		
RX0144	10/23/2013	Email re: "Re eFax message from 8177316497 - 2 page(s), Caller-ID 817-731-6497 "		4504 07-14	N/A		
RX0145	10/23/2013	Email re: "Re: Fw: Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0146	10/23/2013	Email re: "Re: Fw: Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0147	10/25/2013	Email re: "Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0149	10/25/2013	Email re: "TDA Perks"		4504 07-14	N/A		
RX0150	10/25/2013	Email re: "Re: Fw: Newly Endorsed TDA Perks Vendor"		4504 07-14	N/A		
RX0153	10/26/2013	Email re: "TDA Perks Selling Supplies"		4504:07-14	N/A		
RX0154	10/28/2013	Email re: "TDA Perks"		4504 07-14	N/A		
RX0155	10/29/2013	Summary re: "Source One Return Policy"		4504 07-14	N/A		
RX0156	10/29/2013	Email re: "Newly Endorsed TDA Perks Vendor"		4504 07-14	N/A		
RX0158	10/31/2013	Email re: "TDA Perks Comparison Pricing"		4504 07-14	N/A		
RX0159	11/1/2013	Email re: "Fw:Fwd: TDA Perks"		4504 07-14	N/A		
RX0160	11/5/2013	Email re: "2 Day planning strategy session for next year including pre-work"		4504 07-14	N/A		
RX0161	11/7/2013	Email re: "TDA"		4504 07-14	N/A		
RX0162	11/8/2013	Email re: "Re: TDA"		4504 07-14	N/A		
RX0164	11/12/2013	Email re: "TDA Perks Supplies"		4504 07-14	N/A		
RX0165	11/12/2013	Email re: "TDA Perks Supplies"		4504 07-14	N/A		
RX0166	11/12/2013	Email re: "Re: Patterson Dental Update and Details"		4504:07-14	N/A		
RX0167	11/13/2013	Email re: "Grey Market Letter (SourceOne)"		4504 07-14	N/A		
RX0168	11/13/2013	Email re: "TDA"		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0169	11/13/2013	Email re: "RE TDA Perks Supplies"		4504:07-14	N/A		
RX0170	11/13/2013	Email re: "Grey Market Letter (SourceOne)"		4504 07-14	N/A		
RX0171	11/14/2013	Email re: "TDA Perks"		4504 07-14	N/A		
RX0172	11/14/2013	Email re: "TDA Perks"		4504 07-14	N/A		
RX0173	11/19/2013	Email re: "TDA Perks"		4504 07-14	N/A		
RX0175	11/20/2013	Email re: "Re: Chaska Powerpoints"		4504 07-14	3507:10-3511:10		2018.10.30
RX0177	11/20/2013	Email re: "RE: Smile Source"		4504 07-14	N/A		
RX0178	11/25/2013	Email re: "FW: PDCO pricing comparison"		4504:07-14	2623:22-2625:03		
RX0179	11/26/2013	Email re: "Re: Fw: Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0180	11/26/2013	Email re: "Re Fw Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0181	11/26/2013	Email re: "TDA"		4504 07-14	N/A		
RX0182	11/27/2013	Email re: "Fw: Revised Notes"		4504 07-14	N/A		2018.10.30
RX0183	11/30/2013	Email re: "Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0185	11/30/2013	Email re: "Re: Fw: Texas Supply Grey market and the TDA"		4504 07-14	N/A		
RX0187	12/2/2013	Email re: "Fw: Patterson Cross Reference"		4504 07-14	N/A		
RX0190	12/9/2013	Email re: "RE: Are you having a booth at SWDC and/or TDA?"		4504:07-14	N/A		
RX0191	12/11/2013	Powerpoint presentation: "TDA Presentation 12.18.13 Clint"		4504:07-14	N/A		
RX0192	12/11/2013	Email re: "Fwd TDA Perks"		4504 07-14	N/A		
RX0193	12/12/2013	Email re: "Re Patterson Meeting with Dr Duncan on Wednesday 1218"		4504 07-14	N/A		
RX0194	12/16/2013	Email re: "Re: TDA"		4504 07-14	N/A		
RX0195	12/16/2013	Email re: "Re: TDA Perks"		4504 07-14	N/A		
RX0196	12/16/2013	Email re: "TDA Article"		4504 07-14	N/A		
RX0197	12/16/2013	Email re: "Texas Dental Association Perks Program"		4504 07-14	N/A		
RX0199	12/20/2013	Email re: "Follow up from call this morning"		4504:07-14	N/A		
RX0201	12/31/2013	Email re: "Fw: CHC"		4504 07-14	N/A		
RX0202	1/9/2014	Email re: "Re: Dinner"		4504 07-14	N/A		
RX0203	1/15/2014	Email re: "Fwd: Intro"		4504 07-14	N/A		
RX0204	1/16/2014	Email re: "Fw: price class change"		4504 07-14	N/A		
RX0205	1/17/2014	Email re: "RE: Community Health"		4504:07-14	N/A		
RX0207	1/23/2014	Email re: "Re: Mid-winter Chairman's dinner"		4504:07-14	N/A		
RX0208	1/28/2014	Email re: "Confidential Statement"		4504:07-14	N/A		
RX0209	2/10/2014	Email re: "Re: Family Smiles opening order from Patterson"		4504:07-14	1268:24-1269:25		2018.10.30
RX0211	2/12/2014	Email re: "RE: Meeting with TDA Perks"		4504 07-14	N/A		
RX0214	2/12/2014	Email re: "Fw: Br373-PCC-William Pineda"		4504:07-14	N/A		
RX0215	2/13/2014	Email re: "Fw: Schein results, other interesting points"		4504:07-14	N/A		
RX0216	2/13/2014	Email re: "RE: phone message: Joe Cavaretta"		4504 07-14	N/A		
RX0217	2/21/2014	Email re: "Chaska Meeting PPT Presentation"		4504 07-14	N/A		2018.10.30
RX0218	2/25/2014	Email re: "Re: TDA"		4504 07-14	N/A		
RX0219	2/27/2014	Email re: "Fw: price class change Wedgewood Dental"		4504:07-14	1515:18-25		
RX0220	2/28/2014	Email re: "Fwd: Price Class Change Beavin, J BR656 02.28.2014"		4504 07-14	N/A		
RX0221	3/5/2014	Email re: "SM Business plan"		4504 07-14	N/A		
RX0222	3/6/2014	Email re: "Re: Two Things..."		4504 07-14	N/A		2018.10.30
RX0223	3/7/2014	Email re: "Re: Growth with and without special markets"		4504:07-14	N/A		
RX0224	3/11/2014	Calendar Invite re: "Kavo/Kerr Follow-up meeting"		4504 07-14	N/A		
RX0225	3/12/2014	Email re: "Confidential SM Business plan"		4504:07-14	N/A		
RX0226	3/17/2014	Email re: "RE: TDA . . . are we out?"		4504:07-14	N/A		
RX0227	3/19/2014	Email re: "Fw:"		4504 07-14	2813:01-2814:16		
RX0228	3/26/2014	Powerpoint presentation: "MB2 Business Summary"		4504:07-14	N/A		
RX0229	3/26/2014	Email re: "Fwd: MB2 Presentation"		4504 07-14	N/A		
RX0230	3/30/2014	Email re: "[no subject line]"		4504 07-14	N/A		
RX0231	4/7/2014	Email re: "Fw: PCC: OKC: Price Class Change - Good Shepherd (344/341426)"		4504 07-14	1487:11-1488:14 1515:10-17		
RX0232	4/8/2014	Email re: "Re: 2014 TDA - booth strategy call"		4504 07-14	N/A		
RX0233	4/9/2014	Email re: "Re: TDA Meeting"		4504 07-14	N/A		
RX0234	4/9/2014	Email re: "Re: TDA Meeting"		4504 07-14	N/A		
RX0235	4/9/2014	Email re: "Re: TDA Perks"		4504 07-14	N/A		

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RX0236	4/9/2014	Email re: "RE: 2014 TDA - booth strategy call"		4504 07-14	N/A		
RX0237	4/9/2014	Email re: "TDA Perks / Schein"		4504 07-14	N/A		
RX0238	4/10/2014	Email re: "TDA"		4504 07-14	N/A		
RX0240	4/11/2014	Email re: "Fwd: Updated Pricing"		4504 07-14	N/A		
RX0241	4/12/2014	Email re: "FW: Re: Sales to Groups - for Board Presentation"		4504 07-14	N/A		
RX0242	4/14/2014	Email with no subject line		4504 07-14	N/A		
RX0244	4/16/2014	Email re: "FW: TDA Perks letter"		4504 07-14	N/A		
RX0246	4/16/2014	Email re: "Fw: Price Class change for Dan's approval"		4504:07-14	N/A		
RX0248	4/17/2014	Email re: "Nathan Cox liked an activity by Chuck Cohen. Starting text: "[Sales Management]: RMs...You may have heard some nois about a new..."		4504 07-14	N/A		
RX0250	4/23/2014	Email re: "Re: Fw: ShoreTel voice message from NEW HAMPSHIRE , +16033250535 for mailbox 65102"		4504 07-14	N/A		
RX0251	4/24/2014	Email re: "Fw: PCC: DFW: Dr. William Roddy Price Class"		4504:07-14	N/A		
RX0252	4/26/2014	Report re: "Summary of the Fiscal 2015 Sales Commission Program"		4504 07-14	N/A		
RX0253	4/30/2014	Email re: "Fwd:Onvoices NarducciFivepoints dental URGENT"		4504:07-14	N/A		
RX0254	4/30/2014	Email re: "Fw: price class change Genrich,C BR246 04 29.2014"		4504 07-14	N/A		
RX0255	5/9/2014	Email re: "FW: Patterson's new strategy"		4504 07-14	945:01-947:11		
RX0258	5/19/2014	Email re: "Strategic Plan, SWOT and Market Analysis"		4504 07-14	N/A		
RX0261	5/20/2014	Email re: "Columbia 745 SWOT and Strategic plan"		4504:07-14	N/A		
RX0263	5/27/2014	Email re "RE: Public Health Trust/Jackson Health System- Vendor Revision App"		4504 07-14	N/A		
RX0264	5/28/2014	Email re: "Swots"		4504 07-14	N/A		
RX0265	5/28/2014	Email re: "swot 5-10"		4504 07-14	N/A		
RX0267	5/28/2014	Email re: "SE Plan and Swot"		4504 07-14	N/A		
RX0270	5/30/2014	Email re: "Re: Public Health Trust/Jackson Health System- Vendor Registion App"		4504 07-14	3534:10-3535:11		
RX0271	5/30/2014	Email re: "RE: Public Health Trust/Jackson Health System- Vendor Registion App"		4504 07-14	N/A		
RX0274	5/31/2014	Email re: "Fwd: Invoices Narducci/Five points dental URGENT"		4504 07-14	N/A		
RX0275	6/2/2014	Email re: "FW: Columbus Aesthetic and Family Dent"		4504:07-14	N/A		
RX0276	6/3/2014	Email re: "Contract Pricing request"		4504 07-14	N/A		
RX0277	6/4/2014	Email re: "Fwd: Contract Pricing request"		4504 07-14	N/A		
RX0278	6/11/2014	Email re: "RE: Commonwealth"		4504 07-14	N/A		
RX0279	6/13/2014	Email re: "FW: Total Health Dental Care"		4504:07-14	N/A		
RX0280	6/16/2014	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0281	6/16/2014	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0282	6/16/2014	Email re: "Price overrides"		4504 07-14	N/A		
RX0284	6/19/2014	Email re: "RE: dental care of the future"		4504 07-14	N/A		
RX0286	6/24/2014	Email re: "Subject: FW: Special Markets Round Table"		4504:07-14	N/A		
RX0287	6/27/2014	Email re: "For Call With Ginger"		4504 07-14	N/A		
RX0288	7/2/2014	Email re: "Re: Group buying"		4504 07-14	N/A		
RX0289	7/2/2014	Email re "SmileSource"		4504 07-14	N/A		
RX0290	7/2/2014	Smile Source Order of Registration - Minnesota Department of Commerce		4504 07-14	2042:05-2049:17 2055:02-2056:23 2064:07-2065:08 4970:25-4982:14		
RX0291	7/8/2014	Email re: "FW: Response Requested (Patterson / CHA Dental Products) - USE THIS VERSION"		4504 07-14	N/A		
RX0292	7/9/2014	Email re: "FW: FIRST CALL NOTES re: Patterson"		4504 07-14	N/A		
RX0294	7/15/2014	Email re: "RE: CRET Annual Meeting - Save the Date"		4504:07-14	N/A		
RX0296	7/18/2014	Email re: "TDA Perks Program"		4504 07-14	N/A		
RX0297	7/18/2014	Letter re: "Grey Market Letter (SourceOne and TDA Perks)"		4504 07-14	N/A		
RX0300	7/22/2014	Email re: "Special Pricing Requests"		4504:07-14	N/A		
RX0301	7/24/2014	Email re: "767 market analyses docx"		4504 07-14	N/A		
RX0303	7/28/2014	Email re "Re: Aesthetic Smiles..."		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0305	7/31/2014	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0306	8/3/2014	Email re: "Strategy slides for CFG presentation"		4504:07-14	N/A		
RX0307	8/4/2014	Email re: "pricing"		4504 07-14	N/A		
RX0309	8/5/2014	Email re: "FW: pricing"		4504 07-14	N/A		
RX0311	8/7/2014	Email re: "2013 Audit and Formal Opinion -- DTA"		4504:07-14	N/A		
RX0312	8/7/2014	Email re: "FW: Contract Pricing request"		4504 07-14	N/A		
RX0313	8/7/2014	Email re: "FW: Contract Pricing request"		4504 07-14	N/A		
RX0314	8/8/2014	Email re "RE: Greenbrier"		4504 07-14	N/A		
RX0315	8/8/2014	Email re: "FW: Hope you are the man who can help me"		4504:07-14	N/A		
RX0316	8/8/2014	Email re: "FW: Contract Pricing request"		4504 07-14	N/A		
RX0317	8/8/2014	Email re: "Hope you are the man who can help me"		4504:07-14	N/A		
RX0318	8/10/2014	Agreement re: "A-dec Patterson DSO Agmt - final"		4504 07-14	N/A		
RX0320	8/11/2014	Email re: "Hope you are the man who can help me"		4504:07-14	N/A		
RX0321	8/12/2014	Email re: "Fwd: New buying group in Canada and US"		4504:07-14	N/A		
RX0322	8/17/2014	Email re: "Fwd: Buying Group Canada/USA"		4504:07-14	N/A		
RX0324	8/18/2014	Email re: "RE: Confidential"		4504 07-14	N/A		
RX0329	8/21/2014	Email re: "FW: Smile Source"		4504 07-14	N/A		
RX0330	8/26/2014	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0331	8/27/2014	Email re: "Fwd: Atlantic Dental Care"		4504:07-14	N/A		
RX0332	8/28/2014	Email re: "RE: Synetics Summit - Sponsor package"		4504:07-14	N/A		
RX0333	8/28/2014	Email re: "FW: Synetics Summit - Sponsor package"		4504:07-14	N/A		
RX0334	8/28/2014	Email re: "OSI - EQ Formulary"		4504 07-14	N/A		
RX0335	8/28/2014	Email re: "FW: PCC: DFW: Swayden PCC Request"		4504 07-14	N/A		
RX0336	9/2/2014	Email re: "RE: Equalizer ProServices"		4504 07-14	3640:03-21		
RX0337	9/2/2014	Email re: "RE: Request for Meeting"		4504 07-14	N/A		
RX0339	9/4/2014	Email re: "RE: Travis County Healthcare"		4504 07-14	N/A		
RX0340	9/5/2014	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0341	9/11/2014	Email re: "FW: Synetics Summit - Sponsor package"		4504:07-14	N/A		
RX0342	9/11/2014	Email re: "RE: OSI-Sirona"		4504 07-14	2727:02-2730:13		
RX0343	9/15/2014	Email re: "Re: OSI-Sirona"		4504 07-14	N/A		
RX0344	9/16/2014	Email re: "FW: New order from the OrthoSynetics"		4504 07-14	N/A		
RX0345	9/16/2014	Email re: "RE: Price class change"		4504 07-14	N/A		
RX0346	9/18/2014	Email re: "RE: SDM"		4504 07-14	N/A		
RX0347	9/19/2014	Email re: "RE: The Western Regional Dental Convention, 2015"		4504 07-14	N/A		
RX0348	9/19/2014	Email re: "RE: Tralongo"		4504 07-14	2817:20-2821:14		
RX0349	9/19/2014	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0350	9/22/2014	Email re: "RE: Kevin Williams"		4504 07-14	N/A		
RX0351	9/22/2014	Email re: "RE: Forecast Urgent"		4504 07-14	N/A		
RX0352	9/23/2014	Email re: "Merchandise Slides"		4504 07-14	N/A		
RX0353	9/24/2014	Email re: "Re: DOXA"		4504 07-14	N/A		
RX0354	9/25/2014	Email re: "FW Dental Program Summary"		4504 07-14	N/A		
RX0355	9/25/2014	Email re: "Re: Dental Program Summary"		4504 07-14	N/A		
RX0356	9/26/2014	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0357	9/26/2014	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0358	9/30/2014	Email re: "FW: price class change"		4504 07-14	N/A		
RX0359	10/2/2014	Email re: "Mortenson Dental Group Meeting"		4504:07-14	3807:08-3809:09		
RX0360	10/4/2014	Email re: "Outline for Monday"		4504 07-14	N/A		
RX0362	10/8/2014	Email re: "FW: OKC PRICE CLASS Change REQUEST-ABC DENTAL 344627784"		4504 07-14	N/A		
RX0363	10/9/2014	Email re: "FW: PRICE CLASS CHANGE FORM"		4504:07-14	N/A		
RX0365	10/16/2014	Email re: "FW: Kois Tribe Membership Program Launch"		4504:07-14	N/A		
RX0367	10/21/2014	Email re: "FW: Kois Tribe Membership Program Launch"		4504:07-14	N/A		
RX0368	10/24/2014	Email re: "Meeting presentation notes"		4504 07-14	N/A		
RX0369	10/24/2014	Email re "RE: Ascension Health GPO"		4504:07-14	N/A		
RX0370	10/27/2014	Email re: "Jamison strikes again!!"		4504 07-14	N/A		
RX0371	10/28/2014	Email re: "FW: For Patterson Dental"		4504 07-14	N/A		
RX0373	11/3/2014	Email re: "Fwd: Delta Dental of Tennessee - Dental Clinics"		4504 07-14	N/A		

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RX0376	11/18/2014	Email re: "RE: Quick Update"		4504 07-14	N/A		
RX0377	11/18/2014	Email re: "FW: Dental Program Summary"		4504 07-14	251:04-252:01		
RX0378	11/18/2014	Email re: "Fwd: Mydent Throws Schein OUT Completely!"		4504:07-14	N/A		
RX0379	11/21/2014	Email re: "RE: Atlantic Dental Care"		4504 07-14	N/A		
RX0380	11/25/2014	Email re: "presentation to board of directors december 2014.pptx"		4504 07-14	N/A		2018.10.30
RX0382	11/26/2014	Email re: "RE: GPO Operating Cost Question"		4504:07-14	N/A		
RX0383	11/26/2014	Email re: "buyers group"		4504 07-14	N/A		
RX0384	11/27/2014	Email re: "RE: Request for Meeting"		4504 07-14	N/A		
RX0385	12/5/2014	Email re: "NEAL - Current Accounts"		4504 07-14	N/A		
RX0386	12/11/2014	Email re: "FW: OKC: Price Class Change - Crossings Community"		4504 07-14	N/A		
RX0387	12/13/2014	Email re: "Re: Schein GPO info"		4504 07-14	1818:02-1821:18 1860:18-23 1872:24-1874:04		
RX0388	12/13/2014	Email re: "Re: Schein GPO info"		4504 07-14	N/A		
RX0392	12/16/2014	Email re: "SM update - Government/Institutional/School"		4504:07-14	4333:01-4334:14		
RX0394	12/17/2014	Email re: "Schein formulary"		4504 07-14	N/A		
RX0395	12/17/2014	Email re: "RE MB2"		4504 07-14	N/A		
RX0396	12/18/2014	Email re: "Certificates"		4504 07-14	2625:04-2626:13		
RX0399	12/18/2014	Email re: "RE: Price Class Change - 768 Dr Flokes"		4504 07-14	N/A		
RX0401	12/30/2014	Email re: "2014 MMCAP Dental Supplies Bid"		4504:07-14	N/A		
RX0403	1/2/2015	Email re: "RE: GPO Operating Cost Question"		4504:07-14	N/A		
RX0405	1/8/2015	Email re: "RE: Intel"		4504 07-14	N/A		
RX0406	1/19/2015	Email re: "FW: Confidential info on Dental Gator"		4504:07-14	N/A		
RX0407	1/26/2015	Email re: "Update to Pricing Staretyg Document"		4504 07-14	N/A		2018.10.30
RX0408	1/26/2015	Email re: "FW: Key Accounts, etc."		4504 07-14	N/A		2018.10.30
RX0409	1/28/2015	Email re: "RE: MB2 Dental"		4504 07-14	N/A		
RX0410	1/28/2015	Email re: "List of 20 items"		4504 07-14	N/A		
RX0411	1/30/2015	Email re: "FW: SM sales activity"		4504 07-14	1788:24-1793:21		
RX0412	2/4/2015	Email re: "FW: Northcoast Research 4Q14 Quarterly Report"		4504 07-14	N/A		
RX0413	2/4/2015	Email re: "Special Markets"		4504 07-14	N/A		
RX0414	2/4/2015	Email re: "FW: Texas Smiles"		4504 07-14	N/A		
RX0415	2/5/2015	Email re: "RE: Dental Co-Op in Las Vegas area"		4504:07-14	N/A		
RX0416	2/11/2015	Email re: "FW: List of 20 items"		4504 07-14	N/A		
RX0417	2/12/2015	Excel re: "Sundries Pricing Analysis Report 3 Fiscal Months thru Sept - natl accts removed 10.20.14"		4504 07-14	N/A		
RX0418	2/12/2015	Email re: "Fwd: Henry Schein Outlet Store"		4504:07-14	N/A		
RX0419	2/18/2015	Email re: "Re: VENDOR_CONTRACTS-#27115-v1-Patterson_Dental_Supply_Inc_DOCX"		4504 07-14	N/A		
RX0420	2/19/2015	Email re: "FW: FY16 Executive Planning Meeting notes"		4504:07-14	N/A		2018.10.30
RX0421	3/2/2015	Email re: "FW: price class change"		4504 07-14	N/A		
RX0422	3/6/2015	Email re: "Final SMS Research (BOD Presentation)"		4504:07-14	N/A		
RX0423	3/10/2015	Email re: "RE: Premise Health"		4504 07-14	N/A		
RX0424	3/12/2015	Email re: "Re: Hinman GOLD"		4504 07-14	N/A		
RX0426	4/7/2015	Smile Source Franchise Disclosure Document		4504:07-14	N/A		
RX0427	4/14/2015	Email re: "Re: MM Accounts?"		4504 07-14	N/A		
RX0428	4/15/2015	Email re: "FW: Adventure Dental - HERO DVO, LLC"		4504:07-14	N/A		
RX0429	4/15/2015	Email re: "RE: Dave Misiak"		4504 07-14	N/A		
RX0430	4/20/2015	Email re: "FW: Task Force Meeting Notes 4-16-2015 - CONFIDENTIAL"		4504 07-14	N/A		
RX0431	4/20/2015	Email re: "Call me about Scott"		4504 07-14	N/A		
RX0433	4/20/2015	Email re: "Groups we are working on"		4504 07-14	N/A		
RX0434	4/20/2015	Email re: "FW: Price Class Change"		4504 07-14	1486:09-1487:10 1515 02-09		
RX0435	4/25/2015	SEC Filing re: "FY15_10-K"		4504 07-14	N/A		
RX0436	4/27/2015	Email re: "Special Markets Sales Pipeline Report - 4/27/15"		4504 07-14	N/A		
RX0437	5/4/2015	Email re: "Special Markets Sales Pipeline Report - 5/4/15"		4504:07-14	N/A		
RX0438	5/5/2015	Email re: "FW: Schein Competitive Reps-Confidential"		4504:07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0439	5/6/2015	Email re: "Smile Source"		4504 07-14	N/A		
RX0440	5/7/2015	Email re: "FW: SWOT, Market Assessment & Strategic Plan"		4504 07-14	N/A		
RX0441	5/8/2015	Email re: "Nashville's SWOT and Market Analysis FY16"		4504:07-14	N/A		
RX0442	5/11/2015	Email re: "SWOT & PLAN"		4504 07-14	N/A		
RX0443	5/11/2015	Email re: "swot and plan"		4504 07-14	N/A		
RX0444	5/11/2015	Email re: "swot"		4504 07-14	N/A		
RX0445	5/11/2015	Email re: "Chesapeake Branch review"		4504 07-14	N/A		2018.10.30
RX0446	5/11/2015	Email re: "Special Markets Sales Pipeline Report - 5/11/15"		4504 07-14	N/A		
RX0447	5/11/2015	Email re: "RE: Price Class Change - 746 Rothwangl Dental & Great Smiles"		4504:07-14	N/A		
RX0448	5/18/2015	Email re "Updated Strategy Slides"		4504:07-14	N/A		
RX0449	5/18/2015	Email re: "Special Markets Sales Pipeline Report - 5/18/15"		4504 07-14	N/A		
RX0450	5/19/2015	Email re: "Fwd: Performance Mngt Tampa"		4504 07-14	N/A		2018.10.30
RX0451	5/20/2015	Email re: "RE: UOBG GROUP"		4504 07-14	N/A		
RX0453	5/21/2015	Email re: "Re: today call"		4504 07-14	N/A		
RX0454	5/27/2015	Email re: "RE: Meeting cancelled for today for GPO's"		4504 07-14	N/A		
RX0455	5/29/2015	Email re: "Print and overnight"		4504 07-14	N/A		2018.10.30
RX0457	6/1/2015	Email re:"Special Markets Sales Pipeline Report - 6/1/15"		4504:07-14	N/A		
RX0458	6/4/2015	Email re: "FW: Smile Source"		4504 07-14	N/A		
RX0459	6/4/2015	Email re: "Smile Source"		4504 07-14	N/A		
RX0460	6/8/2015	Email re: "Special Markets Sales Pipeline Report - 6/8/15"		4504:07-14	N/A		
RX0461	6/11/2015	Email re: "RE: smile source"		4504 07-14	3581:25-3583:17		
RX0462	6/15/2015	Email re: "SM Sales activity report 6-15-15"		4504 07-14	N/A		
RX0463	6/15/2015	Email re: "Special Markets Sales Pipeline Report - 6/15/15"		4504 07-14	N/A		
RX0464	6/24/2015	Email re: "CDA establishes Dentists Service Company"		4504:07-14	N/A		
RX0465	6/29/2015	Email re: "Special Markets Sales Pipeline Report - 6/29/15"		4504 07-14	N/A		
RX0466	7/6/2015	Email re: "Special Markets Sales Pipeline Report - "7/6/15"		4504:07-14	N/A		
RX0467	7/8/2015	Email re: "Re: EDSO updates - June"		4504:07-14	N/A		
RX0468	7/9/2015	Email re: "June 30th notes"		4504 07-14	N/A		2018.10.30
RX0469	7/10/2015	Email re: "FW: Price overrides"		4504 07-14	N/A		
RX0470	7/13/2015	Email re: "RE: Va Beach Service Growth"		4504 07-14	N/A		2018.10.30
RX0471	7/13/2015	Email re: "Special Markets Pricing Pipeline Report"		4504:07-14	N/A		
RX0473	7/20/2015	Email re: "Special Markets Sales Pipeline Report - 72015"		4504:07-14	N/A		
RX0474	7/20/2015	Email re: "FW Special Markets Sales Pipeline Report - 72015"		4504 07-14	N/A		
RX0475	7/22/2015	Email re: "Re Clear Choice & MB2 visit"		4504:07-14	N/A		
RX0476	7/26/2015	Email re: "GPOs"		4504 07-14	N/A		
RX0480	7/29/2015	Email re: "Dentistry Unchained Conversation "		4504:07-14	N/A		
RX0481	8/4/2015	Email re: "RE: smile starters"		4504 07-14	2626:14-2627:13 3809:11-3811:22 4334:15-4335:11		
RX0482	8/4/2015	Email re: "Re: buying groups"		4504 07-14	N/A		
RX0483	8/10/2015	Email re: "Georgia dental association GPO"		4504:07-14	N/A		
RX0484	8/10/2015	Email re: "FW: Your Dental Practice Game Changer - A Must Read"		4504 07-14	N/A		
RX0486	8/10/2015	Email re: "FW: Special Markets Sales Pipeline Report - 81015"		4504 07-14	N/A		
RX0487	8/13/2015	Email re: "Re: Patterson Sales Literature"		4504 07-14	N/A		
RX0488	8/14/2015	Email re: "Discuss Sales Pipeline with Sirona"		4504:07-14	N/A		2018.10.30
RX0489	8/17/2015	Klearimpakt and Henry Schein primary vendor agreement		4504 07-14	N/A		2018.10.30
RX0490	8/19/2015	Email re: "Re: Location change for Smile Advantage meeting due to high demand!"		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0491	8/21/2015	PowerPoint re: "March Scorecard Sundries GM & Pricing Trends"		4504 07-14	N/A		2018.10.30
RX0492	8/21/2015	Email re: "FW: OMA: Sullivan PC"		4504:07-14	N/A		
RX0493	8/27/2015	Email re: "Fwd: Patterson Transcript"		4504 07-14	N/A		
RX0494	8/31/2015	Email re: "Re: Vital Smiles"		4504 07-14	N/A		
RX0497	9/1/2015	Email re: "FW: Contact My Branch Form"		4504 07-14	N/A		
RX0498	9/8/2015	Email re: "Fwd: RFP"		4504 07-14	N/A		
RX0499	9/8/2015	Email re: "Fwd: RFP"		4504 07-14	N/A		
RX0502	9/9/2015	Email re: "FW: RFP"		4504 07-14	N/A		
RX0503	9/18/2015	Email re: "FW Price Class Change AFO & Kidz Smile BR656 09.14.2015"		4504 07-14	N/A		
RX0505	10/2/2015	Email re: "Special Markets Sales Pipeline Summary - 10215"		4504 07-14	N/A		
RX0506	10/8/2015	Email re: "FW: Br373-PCC-Vanneda- Dr. Kagan"		4504 07-14	N/A		
RX0507	10/9/2015	Email re: "Leadership Call - This Tuesday"		4504:07-14	N/A		
RX0508	10/12/2015	Email re: "Special Markets Sales Pipeline Summary - 10915"		4504 07-14	N/A		
RX0509	10/16/2015	Email re: "Special Markets Sales Pipeline Summary - 101615"		4504 07-14	N/A		
RX0510	10/20/2015	Email re: "Re: Nov 12"		4504 07-14	N/A		
RX0511	10/23/2015	Email re: "Re: meeting with henry schein to discuss potomac valley"		4504 07-14	N/A		
RX0512	10/23/2015	Email re: "Special Markets Sales Pipeline Summary - 102315"		4504 07-14	N/A		
RX0513	10/27/2015	Email re: "RE: Vital Smiles - FW: Request - Patrick Hill"		4504:07-14	N/A		
RX0514	10/27/2015	Email re: "RE: Vital Smiles - FW: Request - Patrick Hill"		4504:07-14	N/A		
RX0515	11/2/2015	Email re: "Special Markets Sales Pipeline Summary - 11215"		4504 07-14	N/A		
RX0518	11/4/2015	Calendar Entry re: "Wes Fields Business Review"		4504 07-14	N/A		
RX0519	11/6/2015	Email re: "Re: Tralongo Group"		4504 07-14	N/A		
RX0520	11/9/2015	Email re: "FW: Advantage Dental 10/22 BDM recep - All good stuff"		4504 07-14	N/A		
RX0521	11/9/2015	Email re: "Special Markets Sales Pipeline Summary - 11915"		4504 07-14	N/A		
RX0522	11/9/2015	Email re: "Klear Impakt"		4504 07-14	N/A		
RX0528	11/13/2015	Email re: "FW: Price Class Chang For Santucci xls 610200943"		4504 07-14	N/A		2018.10.30
RX0529	11/16/2015	Email re: " FW: California Dental Association - TDSC"		4504:07-14	N/A		
RX0530	11/17/2015	Calendar Entry re: "Monthly Business Review"		4504:07-14	N/A		
RX0531	11/18/2015	Email re: "Special Markets Sales Pipeline Summary - 111815"		4504 07-14	N/A		
RX0532	11/20/2015	Email re: "attorney client privelidge"		4504 07-14	N/A		
RX0533	11/21/2015	Email re: "Re: Call with Rick"		4504 07-14	N/A		
RX0534	12/3/2015	Email re: "RE: TDSC Dental Supply RFP - Status"		4504:07-14	N/A		
RX0536	12/7/2015	Email re: "Special Markets Sales Pipeline Summary - 12415"		4504 07-14	N/A		
RX0538	12/14/2015	Email re: "RE CHC Formulary"		4504 07-14	N/A		2018.10.30
RX0540	12/15/2015	Email re: "FW: 744200238 Lakeland Dental Arts - New VSM account- Price Class Change"		4504 07-14	N/A		2018.10.30
RX0542	12/18/2015	Email re: "Special Markets Sales Pipeline Summary - 121815"		4504 07-14	N/A		2018.10.30
RX0544	12/23/2015	Email re: "U.S. Dental market overview deck"		4504 07-14	N/A		2018.10.30
RX0545	1/2/2016	Email re: "Livello Group"		4504 07-14	N/A		
RX0546	1/4/2016	Email re: "FW: TDSC Dental Supply RFP - Patterson"		4504:07-14	N/A		
RX0547	1/6/2016	Email re: "RE: Giving you KUDOS"		4504 07-14	N/A		
RX0550	1/14/2016	Email re: "Fwd: Update on the GDA Group Purchasing Program"		4504 07-14	N/A		
RX0551	1/18/2016	Email re: "FW: TDSC Dental Supply RFP - Patterson"		4504:07-14	N/A		
RX0553	1/18/2016	Email re: "Re: GPO Contact"		4504 07-14	N/A		
RX0555	1/20/2016	Email re: "Fwd: GPO Opportunity"		4504:07-14	N/A		
RX0556	1/20/2016	Email re: "Re: GPO Opportunity"		4504 07-14	N/A		
RX0557	1/20/2016	Email re "Re: GPO opportunity"		4504 07-14	N/A		
RX0559	1/22/2016	Email re: "Special Markets Sales Pipeline Summary - 12216"		4504 07-14	N/A		2018.10.30
RX0560	1/22/2016	Email re: "Special Markets Sales Pipeline Summary - 1/22/16"		4504 07-14	N/A		
RX0562	1/28/2016	Email re: "RE: Another GPO - Unified Smiles"		4504:07-14	N/A		
RX0563	1/29/2016	Email re: "Special Markets Sales Pipeline Summary - 12916"		4504 07-14	N/A		
RX0564	2/4/2016	Email re: "FW: Kear Impakt Pricing List"		4504 07-14	N/A		
RX0565	2/9/2016	Email re: "EDSO Update"		4504 07-14	N/A		
RX0566	2/10/2016	Email re: "Fwd: Special group pricing"		4504:07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0568	2/15/2016	Email re: "Price Class Change & Discount Exceptions - Feb 2016"		4504 07-14	1747:12-1752:21 3622:19-3625:21		2018.10.30
RX0569	2/16/2016	Email re: "FDA price list"		4504 07-14	N/A		
RX0572	3/1/2016	Email re: "FW: board materials"		4504 07-14	N/A		2018.10.30
RX0573	3/1/2016	Email re: "RE: Price Class Changes - Automating the Process"		4504 07-14	N/A		
RX0576	3/4/2016	Email re: "Fwd: narducci group"		4504 07-14	N/A		2018.10.30
RX0577	3/11/2016	Email re: "Re: Message from 7048165682 (+17048165682)"		4504 07-14	N/A		
RX0579	3/12/2016	Email re: "FW: New Lead for a GPO"		4504 07-14	N/A		
RX0580	3/12/2016	Email re: "RE: New Lead for a GPO"		4504 07-14	N/A		
RX0582	3/15/2016	Email re: "FW: Premier Dental Pursuit"		4504 07-14	N/A		
RX0583	3/15/2016	Email re: "Fwd: Dental Distribution Pre-Sourcing requirement (Georgia Dental Association)"		4504 07-14	N/A		
RX0584	3/21/2016	Email re: "GDA - GPO"		4504 07-14	N/A		
RX0586	3/22/2016	2015 DTA Annual Meeting Attendees		4504 07-14	N/A		
RX0587	3/22/2016	2014 DTA Annual Meeting Attendees		4504 07-14	N/A		
RX0589	3/22/2016	Email re: "Fwd: Pipeline Summary"		4504:07-14	N/A		
RX0590	3/23/2016	Email re: "RE: Advantage Dental Program"		4504 07-14	N/A		
RX0592	3/28/2016	Email re: "RE: Premier Dental Pursuit"		4504 07-14	N/A		
RX0593	3/28/2016	Email re: "Re: GPO's"		4504 07-14	N/A		
RX0595	4/6/2016	Smile Source Franchise Disclosure Document		4504:07-14	N/A		
RX0596	4/7/2016	Email re: "dso stuff"		4504 07-14	N/A		
RX0597	4/13/2016	Email re: "RE: Breakaway Practice Program"		4504 07-14	N/A		
RX0598	4/14/2016	Email re: "FW: FDA supplies"		4504 07-14	N/A		
RX0599	4/18/2016	Email re: "Atlantic Dental Care"		4504 07-14	N/A		
RX0600	4/29/2016	Email re: "Sundries GM & Pricing Scorecard View - April 2016"		4504 07-14	N/A		2018.10.30
RX0602	5/1/2016	KlearImpakt and Henry Schein primary vendor agreement		4504 07-14	5516:19-5517:09 5520:09-5524:11		2018.10.30
RX0603	5/2/2016	Email re: "**Sundries GM & Pricing Scorecard View - Update"		4504 07-14	N/A		2018.10.30
RX0604	5/4/2016	Email re: "Patterson Dental Slides May 4 2017.pptx"		4504:07-14	N/A		2018.10.30
RX0605	5/6/2016	Email re: "Pipeline Summary"		4504 07-14	N/A		
RX0606	5/12/2016	Email re: "RE: JDC Healthcare Management"		4504 07-14	N/A		
RX0607	5/12/2016	Email re: "FW: price class change Parrish Ortho BR 663 05.11 2016"		4504 07-14	N/A		2018.10.30
RX0608	5/12/2016	Email re: "FW: Price Class Change Smile Downers Grove BR610 05.10.2016"		4504 07-14	N/A		2018.10.30
RX0610	5/17/2016	Report re: "MAY '16 ACTIVITY REPORT FOR BILL NEAL"		4504 07-14	N/A		
RX0611	5/18/2016	Email re: "Fwd: Schein comparison"		4504:07-14	N/A		
RX0613	5/19/2016	Email re: "Perpich Report and FY15 and FY16 SM sales #'s"		4504:07-14	N/A		2018.10.30
RX0614	5/20/2016	Excel re: "Price Class & Flat Discount Changes (2011 to Current)"		4504 07-14	N/A		2018.10.30
RX0616	6/15/2016	Email re: "Dr Assioun bonus"		4504 07-14	N/A		
RX0618	6/22/2016	Email re: "FW: Patterson"		4504 07-14	N/A		
RX0619	6/23/2016	Email re: "smile Source"		4504 07-14	N/A		
RX0621	6/23/2016	Email re: "Re: fyi"		4504 07-14	N/A		
RX0622	7/7/2016	PowerPoint re: "June 2016 Scorecard Sundries GM & Pricing Trends"		4504 07-14	N/A		2018.10.30
RX0624	7/24/2012	Report re: Top 10,000 Price Analysis - Top Selling Item Order"		4504 07-14	N/A		
RX0625	8/1/2016	Email re: "Re: Hello!"		4504 07-14	N/A		
RX0626	8/3/2016	Email re: "Fwd: Progress Update!"		4504 07-14	N/A		
RX0627	8/9/2016	PowerPoint re: "July 2016 Scorecard Sundries GM & Pricing Trends"		4504 07-14	N/A		2018.10.30
RX0628	8/16/2016	Email re: "DSO option article - If you do not have a transition plan in place for your doctor the DSO's will do it for you."		4504 07-14	N/A		
RX0629	8/18/2016	Email re: "Dr. Shane Sykes"		4504 07-14	N/A		
RX0630	8/26/2016	Email re: "Five Points AMP Request"		4504 07-14	N/A		
RX0631	9/2/2016	Report re: "Territory Sales and Commission Report"		4504:07-14	N/A		2018.10.30
RX0632	9/22/2016	Email re: "FW: advantage dental amp 34505022"		4504 07-14	N/A		
RX0633	9/26/2016	Email re: "AMP Request - Dr. Wohlgemuth"		4504 07-14	N/A		2018.10.30
RX0634	9/27/2016	Email re: "FW: Confidential - Next Steps"		4504:07-14	N/A		

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RX0635	9/28/2016	Email re: "FW: Price Class Change Requests - Maureen Jones BR663 9 28, 2016"		4504 07-14	N/A		2018.10.30
RX0636	10/2/2016	Email re: "Fwd: Reference Customer Rebate"		4504 07-14	N/A		2018.10.30
RX0638	10/7/2016	Email re: "RE: DRAFT: Response to Patterson's offer for Cerec & Eaglesoft customers"		4504 07-14	N/A		2018.10.30
RX0639	10/7/2016	PowerPoint re: "September Scorecard Sundries GM & Pricing Trends"		4504 07-14	N/A		2018.10.30
RX0640	10/18/2016	Email re: "Strategic Planning Offsite Final Details"		4504:07-14	N/A		2018.10.30
RX0641	10/24/2016	Email re: "RE: buying groups and Patterson University"		4504:07-14	N/A		
RX0642	10/26/2016	Email re: "Smile Source accounts"		4504:07-14	N/A		
RX0643	12/19/2016	Email re: "FW: Smile Source top formulary products"		4504:07-14	N/A		
RX0644	12/27/2016	Calendar Invite re: "Patterson University and buying groups"		4504 07-14	N/A		
RX0645	1/3/2017	Email re: "Rhonda's activity report January 2017"		4504 07-14	N/A		2018.10.30
RX0649	1/11/2017	Email re: "State GPOs"		4504 07-14	N/A		
RX0650	1/17/2017	Email re: "Dr. Beth Robinson"		4504 07-14	N/A		
RX0651	1/18/2017	Email re: "Smile Source pricing review"		4504:07-14	N/A		
RX0652	1/23/2017	Email re: "Smile Source - Jon Anderson"		4504:07-14	N/A		
RX0654	1/31/2017	Smile Source and Patterson Dental Strategic Accounts (Power Point)		4504 07-14	3543:19-3549:19		
RX0655	2/1/2017	Email re: "Smile Source Meeting"		4504 07-14	3538:08-3543:18 3580:12-3581:22 3583:18-3584:07		
RX0656	2/3/2017	Email string ending with email from Trevor Maurer to Tim Rogan re Smile Source small groups. Current conflict.		4504 07-14	N/A		
RX0657	2/21/2017	Email re: "MB2 meeting with Heartland at ADSO"		4504:07-14	N/A		
RX0659	3/14/2017	Email re: "RE: AMP Net Downs - Dave's Project"		4504 07-14	N/A		
RX0661	3/21/2017	Excel re: "schein 14"		4504 07-14	N/A		2018.10.30
RX0662	3/21/2017	Excel re: "schein 15"		4504 07-14	N/A		2018.10.30
RX0665	4/3/2017	Smile Source Franchise Disclosure Document		4504:07-14	N/A		
RX0666	4/17/2017	Email re: "FW: Please submit this AMP proposal for Harris Family 703/346903"		4504 07-14	N/A		2018.10.30
RX0667	4/18/2017	Email re: "Re: Schein rep letter - 25% discount"		4504:07-14	N/A		
RX0668	4/20/2017	Email re: "APC Partner Engagement Opportunities- Breakaway & Smile Advantage"		4504 07-14	N/A		
RX0669	4/24/2017	Email re: "RE: Please submit this AMP proposal for Harris Family 703/346903"		4504 07-14	N/A		2018.10.30
RX0670	4/27/2017	PowerPoint re: "Sundries GM & Pricing Scorecard View - Mar 2017 v1 0"		4504 07-14	N/A		2018.10.30
RX0671	5/3/2017	Email re: "buying group discussion"		4504:07-14	N/A		
RX0672	5/4/2017	Email re: "Fwd: Smith AMP approval"		4504:07-14	N/A		2018.10.30
RX0673	5/9/2017	Email re: "ADC"		4504 07-14	N/A		
RX0674	5/11/2017	Email re: "RE: Please submit AMP pricing for the Huthwaites 703386955"		4504 07-14	N/A		2018.10.30
RX0676	5/15/2017	Summary re: "Fourth Quarter Fiscal 2017- Strategic Accounts Managed Business"		4504 07-14	N/A		2018.10.30
RX0677	5/17/2017	Excel re: "Private Practice Logs - Competitor Info 051717"		4504 07-14	N/A		2018.10.30
RX0678	5/22/2017	Excel re: "Atlantic Dental Care"		4504 07-14	N/A		
RX0679	5/24/2017	PowerPoint re: "February Scorecard Sundries GM & Pricing Trends"		4504 07-14	N/A		2018.10.30
RX0680	11/30/2016	PowerPoint re: "November Scorecard Sundries GM & Pricing Trends"		4504 07-14	N/A		2018.10.30
RX0681	10/31/2016	PowerPoint re: "October Scorecard Sundries GM & Pricing Trends"		4504 07-14	N/A		2018.10.30
RX0682	5/26/2017	Every Smile Counts Conference Call		4504:07-14	N/A		
RX0684	6/2/2017	Email re: "Fwd: Andrew Houston Pricing Expiration"		4504:07-14	N/A		
RX0685	6/15/2017	Email re: "RE: MM Deal - North Penn (NE Region) - Needs your approval"		4504 07-14	N/A		2018.10.30
RX0687	8/11/2017	Summary re: "First Quarter Fiscal 2018 - Strategic Accounts Managed Business"		4504 07-14	N/A		2018.10.30

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX0688	8/24/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard"		4504 07-14	N/A		2018.10.30
RX0691	8/25/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard 8 24 17"		4504 07-14	N/A		2018.10.30
RX0693	8/31/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard"		4504 07-14	N/A		2018.10.30
RX0694	9/11/2017	Email re: "Bencho/new buying club"		4504:07-14	N/A		
RX0695	9/14/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard"		4504 07-14	N/A		2018.10.30
RX0696	9/15/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard"		4504 07-14	N/A		2018.10.30
RX0697	9/18/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard"		4504 07-14	N/A		2018.10.30
RX0698	9/22/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard"		4504 07-14	N/A		2018.10.30
RX0700	10/9/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard"		4504 07-14	N/A		2018.10.30
RX0701	10/9/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard"		4504 07-14	N/A		2018.10.30
RX0702	10/16/2017	Email re: "Re: *SPAM* RE: ADSO"		4504 07-14	N/A		
RX0703	10/24/2017	PowerPoint re: "Sales Rep Retention August 2017"		4504 07-14	N/A		2018.10.30
RX0704	11/14/2017	Summary re: "Second Quarter Fiscal 2018 - Strategic Accounts Managed Business"		4504 07-14	N/A		2018.10.30
RX0706	12/5/2017	PowerPoint re: "Strategic Accounts (DSO) Tracking Scorecard _12.1.17"		4504 07-14	N/A		2018.10.30
RX0707	12/11/2017	Email re: "Klearimpakt introduction"		4504:07-14	N/A		
RX0708	12/15/2017	Excel re: "171215_DSO Pricing Bids_v2.xlsx"		4504:07-14	N/A		
RX0709	12/18/2017	Excel re: "Atlantic Dental Care Sales 2012-2014"		4504 07-14	N/A		
RX0710	12/18/2017	Excel re: "Atlantic Dental Sales 2009-2017"		4504 07-14	N/A		2018.10.30
RX0711	12/21/2017	Email re: "Klearimpakt"		4504 07-14	N/A		
RX0713	2/12/2018	Summary re: "Third Quarter Fiscal 2018 - Strategic Accounts Managed Business"		4504 07-14	N/A		2018.10.30
RX0715	5/10/2018	Excel re: "Spec 02 - SSLP Membership Report (Current & Former) 2018-05-09"		4504 07-14	N/A		
RX0717	5/15/2018	Excel re: "Schein 18"		4504 07-14	N/A		2018.10.30
RX0718	5/18/2018	Summary re: "Quarterly Executive Performance Review Q3 FY15"		4504 07-14	N/A		2018.10.30
RX0719	5/25/2018	Excel re: "Price Class Flat Discount Changes (2011 to 2017)"		4504 07-14	N/A		2018.10.30
RX0722	6/1/2018	Excel re: "Smile Source Patterson Sales Analyses with highlighting"		4504 07-14	N/A		
RX0723	6/1/2018	Report re: "BILL NEAL SPECIAL MARKETS ACTIVITY REPORT NOV 4-15"		4504 07-14	N/A		
RX0724	6/1/2018	Powerpoint re: "DSO Market slides 122117"		4504 07-14	N/A		2018.10.30
RX0725	6/1/2018	Powerpoint re: "DSO Pipeline"		4504 07-14	N/A		2018.10.30
RX0726	6/1/2018	Excel re: "Smile Source Sales_2009-2017"		4504 07-14	N/A		2018.10.30
RX0727	6/6/2018	Excel re: "Kois Members Sales_2009-2017 with highlighting"		4504:07-14	N/A		
RX0728	6/6/2018	Excel re: "Kois Members Sales_2009-2017"		4504 07-14	N/A		2018.10.30
RX0730	6/15/2018	Microsoft Power BI re: "AMP Dashboard - Work File v.4"		4504 07-14	N/A		2018.10.30
RX0731	6/20/2018	Microsoft Power BI re: "SA Dashboard - Work File"		4504:07-14	N/A		2018.10.30
RX0732	7/25/2018	Excel re: "Dental Cooperative formatted with highlighting"		4504:07-14	N/A		
RX0733	7/25/2018	Excel re: "Dental Cooperative Sales_2009-2017"		4504 07-14	N/A		2018.10.30
RX0734	7/31/2018	Excel re: "Customer Spreadsheet Sales_2009-2017 GA only"		4504 07-14	N/A		2018.10.30
RX0735	8/13/2018	Excel re: "Customer Spreadsheet Sales_2009-2017 GA only with highlighting"		4504 07-14	N/A		
RX0736	[Intentionally Left Blank]	Excel re: "Dkt. No. 9379"		4504 07-14	N/A		2018.10.11
RX0737	[Intentionally Left Blank]	Patterson Price Class Change Forms		4504 07-14	1473:09-1486:08 1510:25-1515:01 1733:04-1739:12 1742:12-1744:17 2759:14-2780:08 3620:01-3622:18		2018.10.30
RX1001	4/1/2010	On the Move		4504 07-14	N/A		
RX1002	7/9/2010	Strategic Planning Exercise		4504 07-14	N/A		
RX1003	5/11/2011	Email from Mitchell Huber to Regional Managers re Price Comparison		4504:07-14	N/A		2018.10.30

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX1004	7/26/2011	Email from Durrand Ashford to Chuck Cohen and Paul Jackson		4504:07-14	N/A		
RX1014	7/25/2012	Your email		4504 07-14	N/A		
RX1015	12/6/2012	Email re Some More		4504 07-14	N/A		2018.10.30
RX1017	3/26/2013	Email from Chuck Cohen to Jamie Kasinski		4504:07-14	N/A		
RX1018	5/20/2013	Response to Atlantic Dental Care RFP		4504:07-14	N/A		2018.10.30
RX1021	8/28/2013	Email to Regional Managers regarding upcoming meeting, with attachment		4504 07-14	N/A		
RX1022	1/30/2014	Email re: Benco/Smile Source Meeting CMW Thursday @ 10:00		4504:07-14	784:16-788:13		
RX1023	2/11/2014	Email from FTC to A. Shams		4504 07-14	N/A		
RX1025	3/1/2014	Benco Dental CFO Report		4504 07-14	N/A		2018.10.30
RX1026	4/1/2014	Board of Directors Update: 2013		4504 07-14	N/A		2018.10.30
RX1030	4/17/2014	Sharepoint post		4504 07-14	N/A		
RX1031	6/1/2014	2015 Strategic Planning Session		4504 07-14	N/A		2018.10.30
RX1033	8/13/2014	Email from Patrick Ryan to McElaney and Klavon, with attachment		4504 07-14	N/A		
RX1034	8/19/2014	Email from Mini Smith to Patrick Ryan, with attachments		4504:07-14	N/A		2018.10.30
RX1035	8/19/2014	Group Practice Policy		4504 07-14	N/A		
RX1037	10/10/2014	Trade show attendance study		4504 07-14	N/A		
RX1038	10/15/2014	Meeting Appointment re District Conference Call		4504:07-14	N/A		
RX1039	10/21/2014	Email FW: Group Purchase		4504 07-14	272:02-276:13 791:07-794:19		
RX1040	10/21/2014	Email re: Fwd: Group Purchase		4504 07-14	276:14-279:20		
RX1041	10/25/2014	Benco Dental sales/marketing newsletter		4504 07-14	N/A		
RX1042	10/27/2014	Email re: Group Purchase		4504 07-14	794:20-798:18		
RX1044	10/27/2014	re: Group Purchase		4504 07-14	N/A		
RX1045	10/28/2014	Email from Scott Jack to Chuck Cohen and Pat Ryan		4504:07-14	N/A		
RX1047	10/29/2014	2014 Patterson Competitive Assessment: Secondary Information Focus		4504 07-14	N/A		
RX1048	10/30/2014	Email from Noel Blasso to Paul Jackson attaching meeting minutes		4504 07-14	N/A		2018.10.30
RX1049	11/1/2014	Investment Review Methodology, Benco Dental, dated November 2014		4504 07-14	N/A		
RX1053	12/15/2014	Sharepoint post		4504 07-14	N/A		2018.10.30
RX1057	4/2/2015	Email from Ron Fernandez to Rick Dunn; Mark Rowe		4504:07-14	N/A		
RX1058	6/8/2015	Email re Cain Waters		4504 07-14	N/A		
RX1060	8/18/2015	2015 Special Markets		4504 07-14	N/A		
RX1061	9/23/2015	Email re Thoughts on how to make a buying club powered by Benco for CWA		4504 07-14	N/A		
RX1062	10/6/2015	Email from Patrick Ryan to Chuck Cohen		4504:07-14	N/A		
RX1063	10/6/2015	Email re CDA California Dental Association - new subsidiary TDSC organizing to offer group purchasing services and operating as GPO		4504 07-14	N/A		
RX1064	10/7/2015	Email re Fwd: CC on the 19th		4504 07-14	N/A		
RX1065	10/7/2015	Email re CDA California Dental Association - new subsidiary TDSC organizing to offer group purchasing services and operating as GPO		4504 07-14	N/A		
RX1067	10/20/2015	Re: Fwd: Tax Letters for Kois Center, Kois Tribal Management		4504 07-14	N/A		
RX1068	10/20/2015	Re: Fwd: Tax Letters for Kois Center, Kois Tribal Management		4504 07-14	N/A		
RX1069	11/6/2015	Dr Scalas RE: RE: Tribe Member Cancellations		4504:07-14	N/A		
RX1070	11/13/2015	Email re Group Dental		4504 07-14	1217:05-13		
RX1074	12/21/2015	Case Study: Elite Dental Alliance		4504:07-14	N/A		2018.10.30
RX1082	2/22/2016	Re: Evidentiae Course May 20th-21st		4504 07-14	N/A		
RX1083	3/21/2016	Quick check-in		4504 07-14	N/A		
RX1084	3/30/2016	Update: KOIS Center		4504 07-14	N/A		
RX1086	9/19/2016	RE: Introduction		4504 07-14	N/A		
RX1087	10/26/2016	RE: Kois Buyers Group		4504 07-14	N/A		
RX1088	4/5/2017	Email subject: Leaving the Kois Buyers Group		4504:07-14	379:07-381 01		
RX1094	2/28/2018	Email between P. Guggenheim and S. Anderson re Strategic Documents		4504 07-14	N/A		
RX1097	12/15	Dental business growth strategy project, US market overview		4504 07-14	N/A		2018.10.30
RX1099		Benco Dental: A Competitive History		4504 07-14	933:17-939:12		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX1101		Patterson Dental FY 2013 Strategic Review		4504 07-14	N/A		
RX1102	3/28/2012	Video - The History of Benco Dental (available at https://www.youtube.com/watch?v=s0qm20uFM3U)		4504 07-14	N/A		
RX1103	9/3/2015	Video - Benco Dental CenterPoint East - Pittston, PA (available at https://www.youtube.com/watch?v=7TrERziOqxc)		4504 07-14	N/A		
RX1104	6/17/2016	Video - Benco Dental Centerpoint Dallas (available at https://www.youtube.com/watch?v=260ohtsD7OO)		4504 07-14	N/A		
RX1105	4/4/2017	Video - Benco Dental - Redefine and Reinvent: Innovation (available at https://www.youtube.com/watch?v=UDy00d-Ogdc)		4504 07-14	N/A		
RX1106	9/22/2017	Video - Benco Dental CenterPoint West - Costa Mesa, CA (available at https://www.youtube.com/watch?v=hz-hqj97D9E)		4504 07-14	N/A		
RX1107	11/15/2017	Video - Benco Dental - CenterPoint VIP Experience (available at https://www.youtube.com/watch?v=Lsw264_x4-A)		4504 07-14	N/A		
RX1108	7/1/2009	"Benco Dental to Relocate Corporate HQ to CenterPoint East," Press Release dated July 1, 2009. (http://www.mericle.com/press-releases/benco-dental-to-relocate-corporate-hq-to-centerpoint-east/ , viewed on December 10, 2017.)		4504 07-14	N/A		
RX1109	6/21/2012	"Benco Dental Opens State-of-the-Art Design Showroom in California," Press Release dated June 21, 2012. (http://www.prweb.com/releases/2012/6/prweb9627597.htm , viewed on December 10, 2017.)		4504 07-14	N/A		
RX1110	9/24/2015	"Benco Adds Distribution Center in Texas," Press Release dated September 24, 2015. (https://www.benco.com/benco-adds-distribution-center-in-texas/ , viewed on December 10, 2017.)		4504 07-14	N/A		
RX1111	12/1/2015	"Benco Opens Third CenterPoint." (http://www.firstimpressionsmag.com/benco-opens-third-centerpoint.html , viewed on December 10, 2017.)		4504 07-14	N/A		
RX1112	2/1/2017	Benco 2016 Annual Report. (https://www.benco.com/wp-content/uploads/2017/03/17_BencoAnnualReport.pdf , viewed on December 10, 2017.)		4504 07-14	N/A		
RX1113		"The Benco Difference," (https://www.benco.com/catalogs/ , viewed on December 10, 2017.)		4504 07-14	670:19-677:19		
RX1114		https://thedailyfloss.com/2015/03/12/been-to-disneyland-try-a-free-visit-to-the-disneyland-of-dentistry		4504 07-14	N/A		
RX1115		https://www.atlantadental.com/about-us/locations , last accessed September 2, 2018.		4504 07-14	N/A		
RX1116		http://www.iq.dentalsupply.com/Contact-Us_2 , last accessed April 3, 2017.		4504 07-14	N/A		
RX1117		https://www.dhpionline.com/information/locations , last accessed March 19, 2017.		4504 07-14	N/A		
RX1118		https://www.voco.dental/us/the-company/the-dentists/about-voco.aspx last accessed Sept. 14, 2017		4504 07-14	N/A		
RX1119		https://www.cainwatters.com/about-cwa/ , last accessed September 3, 2018.		4504 07-14	N/A		
RX1120		"Sitting down with Benco Dental managing directors Chuck and Rick Cohen," http://www.dentistryiq.com/articles/2013/06/sitting-down-with-benco-dental-managing-directors-chuck-and-rick.html , last accessed April 5, 2017		4504 07-14	N/A		
RX1121	11/21/2016	Deposition of Brian Evans		4504 07-14	N/A		2018.10.30
RX1122	11/22/2016	Deposition of Mike Wade		4504 07-14	N/A		2018.10.30
RX1123	1/26/2017	Deposition of Steven Desautel		4504 07-14	N/A		
RX1124	1/31/2017	Deposition of Mark Rowe		4504 07-14	N/A		2018.10.30
RX1125	2/1/2017	Deposition of Rick Dunn		4504 07-14	N/A		2018.10.30
RX1126	2/3/2017	Deposition of Ron Fernandez		4504 07-14	N/A		2018.10.30

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RX1127	2/7/2017	Deposition of Chuck Cohen		4504 07-14	N/A		2018.10.30
RX1128	2/17/2017	Deposition of Mike McElaney		4504 07-14	N/A		2018.10.30
RX1129	5/12/2017	Deposition of Pat Ryan		4504 07-14	N/A		2018.10.30
RX1130	6/16/2017	Deposition of Chuck Cohen		4504 07-14	N/A		2018.10.30
RX1131	6/27/2017	Deposition of John Johnson - SOD		4504:07-14	N/A		
RX1132	8/1/2017	Deposition of Mark Rowe		4504 07-14	N/A		
RX1133	8/1/2017	Deposition of Rick Dunn		4504 07-14	N/A		2018.10.30
RX1134	8/17/2017	Deposition of Ron Fernandez		4504 07-14	N/A		
RX1135	8/30/2017	Deposition of Jeff Reece, Individual		4504:07-14	N/A		2018.10.11
RX1136	8/30/2017	Deposition of Jeff Reece, 30(b)(6)		4504:07-14	N/A		2018.10.11
RX1137	10/27/2017	Deposition of Chuck Cohen		4504 07-14	N/A		2018.10.30
RX1138	1/10/2018	Deposition of John Johnson		4504 07-14	N/A		
RX1139	8/19/2010	U.S. Department of Justice and the Federal Trade Commission, 2010 Horizontal Merger Guidelines		4504 07-14	N/A		
RX1140	4/28/2017	Expert Report of Dr. John H. Johnson IV (SourceOne)		4504:07-14	4781:08-16		2018.10.30
RX1141	11/20/2017	Expert Report of Dr. John H. Johnson IV (Class)		4504:07-14	4781:17-4787:10		2018.10.30
RX1142	1/9/2018	Errata Expert Report of Dr. John H. Johnson IV		4504:07-14	N/A		
RX1143	3/6/2018	Benco's Answer to FTC Complaint		4504:07-14	677:21-681:08		
RX2001	9/22/2014	Email from S. Anderson to G. Price, (CC T. Sullivan, S. Anderson, M. Augins, E. Shirley, P. Mondock, B. Savage, K. Brown, L. Isbell, A. Morman, F. Freedman, J. Landers) re: By-laws change Membership responsibilities		4504 07-14	N/A		
RX2002	3/5/2013	Email from C. Cohen to M. Margit, A. Klamar, C. Cohen, G. Wolfe, H. Wolf, J. Slovin, J. Charlestein, L. Isbell, N. M(CCarrroll, P. Lowe, R. Lazarus, R. Saslow, S. Sanchez Reynoso, S. Anderson, T. Sullivan re: 5:00 pm local time -- YPO - Meeting-in-Meeting		4504 07-14	N/A		
RX2003	3/5/2013	Email from T. Sullivan to G. Price, (CC S. Anderson, M. Augins, E. Shirley, A. Miller, P. Lowe, B. Savage, L. Isbell) re: DTA Budget issue		4504 07-14	N/A		
RX2004	7/16/2013	Email from Andy Goldsmith to Jerry Risema re Share some thoughts		4504 07-14	2127:20-2129:22		
RX2005	12/20/2013	Email from S. Anderson to T. Sullivan, (CC L. Isbell, M. Augins, P. Lowe, E. Shirley, B. Savage, N. Folven, K. Brown) re: A Schein product finally made it into my home		4504 07-14	N/A		
RX2006	1/13/2012	Email from Mike McElaney to Andy Lesh et al. Re: NE DOS announcing Kevin Dillon joining Benco		4504 07-14	N/A		
RX2007	6/15/2013	Email from Chuck Cohen to Bob Cunningham Re: Charlie Vota		4504:07-14	N/A		
RX2008	2/1/2011	Email from Patrick Ryan to Dave Ruesch Re: Interview		4504 07-14	N/A		
RX2010	11/4/2011	Email from Chuck Cohen to Tim Sullivan re opportunities at Benco Dental		4504:07-14	N/A		
RX2011	1/28/2012	Email from C. Cohen to R. Cacciatore, T. Sullivan, (CC G. Price, S. Anderson, P. Lowe) re: Dental Distribution Hall of Fame		4504 07-14	N/A		
RX2012	3/27/2012	Email from C. Cohen to P. Guggenheim, T. Sullivan, B. Wise, (CC G. Price, G. Rable) re: Sexual Harassment Question		4504 07-14	N/A		
RX2013	6/11/2012	Email from C. Cohen to T. Sullivan, (CC L. David, M. Ettinger), re: A quick favor...		4504 07-14	N/A		
RX2014	8/1/2013	Email from T. Sullivan to C. Cohen re: You are my SUNSHINE!		4504 07-14	N/A		
RX2015	12/26/2013	Email from C. Cohen to T. Sullivan re: Book Suggestion		4504:07-14	N/A		
RX2016	12/27/2014	Email from C. Cohen to T. Sullivan, (CC R. Cohen) re: Happy Holidays		4504 07-14	N/A		
RX2017	2/8/2017	Email from C. Cohen to T. Sullivan re: Buy Now Direct		4504:07-14	N/A		
RX2018	7/24/2013	Email From C. Peterson To C. Cohen et al. re: DTA Annual Mtg. Auction Letter		4504 07-14	N/A		
RX2019	4/28/2014	Email from C. Cohen to T. Sullivan, (CC Kathy Grimes) re: Sponsored by Henry Schein / Custom Survey on Dental and Medical Sales Positions		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2024		Brasseler USA / Dental Cooperative Memo - Brasseler USA and The Dental Cooperative Form Partnership!		4504 07-14	N/A		
RX2025		Unit Purchase and Recapitalization Agreement by and among Peter Brasseler Holdings, LLC, the Members of the Company party thereto, SG Healthcare Corp. and Henry Schein, Inc., Schedule 5.6(c) Post-Closing Capitalization		4504 07-14	N/A		2018.10.11
RX2029	7/1/2013	Distribution Agreement between Brasseler USA Dental and Unified Smiles, LLC		4504 07-14	N/A		2018.10.11
RX2031	3/12/2015	Email from Dennis Burke to Ken Allen, cc Bill Miller, Kerry Connelly, Cary Rose re Pricing proposal		4504 07-14	N/A		2018.10.11
RX2032	1/1/2018	Dental Group Product Purchase Agreement between Brasseler U.S.A. Dental, LLC and Unified Smiles, LLC		4504 07-14	N/A		2018.10.11
RX2033	1/1/2017	Primary Vendor Agreement between Henry Schein, Inc. and Corydon Palmer Dental Society		4504 07-14	1921:11-23		2018.10.30
RX2034	12/31/2017	Henry Schein Annual Report 2017		4504:07-14	N/A		
RX2035	12/31/2015	Henry Schein Annual Report 2015		4504:07-14	N/A		
RX2042	6/16/2017	Email from C. Cohen to T. Sullivan, (CC R. Cohen) re: Your receipt and how to get your donation matched including metadata cover sheets		4504 07-14	N/A		
RX2043	12/16/2014	Burkhart Dental Supply and Smile Source Agreement		4504:07-14	2147:06-2153:17		
RX2044	11/14/2017	Email from A. Mastropietro to L. Kahn, J. Baytosh, J. Bedich re: Fwd: Henry Schein/Corydon Agreement; Corydon Palmer Dental Society Agreement 2017-2019.pdf; Corydon Palmer Agreement 2015-2016 signed.pdf		4504 07-14	N/A		
RX2045	9/14/2015	Henry Schein & KlearImpakt Enrollment Procedure explaining electronic enrollment process		4504 07-14	N/A		
RX2046	9/10/2015	Email From K. Titus To rkjrich@yahoo.com re: KlearImpakt News Release - For Approval		4504 07-14	N/A		
RX2047	8/27/2015	Email From R. Lewis To R. Johnson re: PDF Henry Schein (FINAL PDF - HENRY SCHEIN PRICE SHEET.pdf attached)		4504 07-14	N/A		
RX2048	8/27/2015	KlearImpakt / Henry Schein Dental Price Sheet		4504 07-14	N/A		
RX2049	7/19/2016	Email from D. Wingard to R. Johnson re: HSD/KI Welcome Letter attaching Letter from Henry Schein Dental to KlearImpakt Customer welcoming newest member of the Solutions Platform		4504 07-14	N/A		
RX2050	4/24/2015	Klearimpakt and Henry Schein Meeting Calendar Invite		4504:07-14	N/A		
RX2051	4/24/2015	Henry Schein's Klearimpakt Meeting Agenda for April 24th 2015		4504 07-14	N/A		
RX2052	4/27/2015	Email from R. Lewis To K. Titus (Bcc rkjrich@yahoo.com) re: Klearimpakt Presentation (KI HS Present (2).pdf attached)		4504 07-14	N/A		
RX2053	4/27/2015	Henry Schein Partnership Presentation to KlearImpakt		4504 07-14	N/A		
RX2054	1/23/2015	Email from N. Lena to R. Johnson, R. Lewis, M. Iliff, J. Sala and Todd (KlearImpakt) re: Business Solutions Offerings		4504 07-14	N/A		
RX2055	4/27/2015	Email from K. Titus to T. Sala, N. Lena, R. Johnson, and J. Sala re: Schein and KlearImpakt meeting		4504 07-14	N/A		
RX2056	4/20/2018	Email from D. Wingard to R. Johnson, J. Sala, T. Sala, and R. Lewis re: KlearImpakt Amendment E&T with PVA KlearImpakt attached		4504 07-14	N/A		
RX2057	4/20/2018	Amendment to the Primary Vendor Agreement (Buying Group) between Henry Schein and KlearImpakt		4504 07-14	N/A		2018.10.11
RX2058	8/1/2016	Email from Darci Wingard to Rich Johnson with counter signed primary vendor agreement attached		4504 07-14	N/A		2018.10.11
RX2059	8/1/2016	KlearImpakt Primary Vendor Agreement		4504 07-14	N/A		2018.10.11
RX2060	3/12/2015	Email from R. Lewis to J. Sala, T. Sala, M. Iliff, R. Johnson, C. Iliff re: Fwd: KlearImpakt; KlearImpakt TLA Benefits Summary 8.5x11.pdf attached		4504 07-14	N/A		
RX2061	3/12/2015	Welcome to KlearImpakt packet		4504 07-14	N/A		
RX2062	2/11/2015	Email from K. Titus to R. Johnson re: KlearImpakt		4504:07-14	5495:25-5500:03		
RX2063	2014	Dental Gator Purchasing Plan		4504 07-14	N/A		
RX2064	2014	Dental Gator Membership Advertisement		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2065	8/26/2014	Email from Stuart Dropkin to Patrick Gill re Invitation: Conference w/ Dr. Dropkin & Pat @ Thu Sep 11, 2014 12pm - 1pm (Imark Direct)		4504 07-14	N/A		
RX2066	6/26/2014	Email from Kumar Vadivel to Patrick Gill re Dental Gator		4504:07-14	N/A		
RX2067	9/10/2014	Email from Dr. Marucio Dardano to Patrick Gill, cc Dr. Steven Villanueva, Dr. John Tang, Dr. Gabriel Shahwan, Dr. Akhil Reddy, Justin Puckett re August vendor numbers		4504 07-14	N/A		
RX2069	12/5/2014	Email from Patrick Gill to Dr. Steven Villanueva, Dr. John Tang, Dr. Mauricio Dardano, Dr. Gabriel Shahwan, Dr. Akhil Reddy, Justin Puckett re Dental Gator November update		4504 07-14	N/A		
RX2071	2/16/2015	Email from Patrick Gill to Justin Wright re Dental Gator		4504:07-14	N/A		
RX2073	4/14/2015	Email from Patrick Gill to Dr. Steven Villanueva, Dr. John Tang, Dr. Gabriel Shahwan, Dr. Mauricio Dardano, Justin Puckett re DG March update		4504 07-14	2294:11-2296:21		
RX2074	6/15/2015	Email from Patrick Gill to Dr. Steven Villanueva, Dr. John Tang, Dr. Gabriel Shahwan, Dr. Mauricio Dardano, Justin Puckett re DG May update		4504 07-14	N/A		
RX2076	11/17/2015	Email from Patrick Gill to Justin Puckett re Reliable Dental Lab		4504 07-14	N/A		
RX2077	12/28/2015	Email from Patrick Gill to Sarah Sawyer, cc Justin Puckett re Please read!		4504 07-14	N/A		
RX2079	8/11/2014	MB2 Prime Dental Supplier and Equipment Agreement		4504:07-14	N/A	RXD0001	2018.10.30
RX2080	8/4/2014	Email from Patrick Gill to Dr. Steven Villanueva, cc Dr. John Tang, Dr. Mauricio Dardano, Dr. Gabriel Shahwan, Dr. Akhil Reddy, Justin Puckett re Schein July numbers		4504 07-14	N/A		
RX2082	2/27/2014	Email from A. Goldsmith to J. Ritsema re: KC Burkhart Comparison		4504 07-14	N/A		2018.10.11
RX2083	1/13/2012	Email from A. Goldsmith to T. Nickerson, M. Oliver, K. Thonas, A. Clendenin, K. Cooley, A. Allen, and S. Lusk re: Smile Source Follow Up		4504 07-14	2098:01-2101:03	RXD0001	2018.10.11
RX2084	9/9/2011	"What is Smile Source?" Powerpoint presentation		4504:07-14	2056:24-2059:20		2018.10.11
RX2085	5/29/2014	Email from S. Walsh to T. Maurer re: Darby Agreement with SmileSource-Darby Agreement (6/1/14) attached		4504 07-14	N/A		2018.10.11
RX2086	2014	Agreement between Darby and Smile Source		4504 07-14	N/A		2018.10.11
RX2088	9/17/2014	Email from Trevor Mauer to David Howlett re Darby		4504:07-14	N/A		2018.10.11
RX2089	2/15/2012	Email from Carol Pampel to T. Nickerson Re Meeting at CMW with Tim Sullivan		4504 07-14	N/A		
RX2090	2/9/2012	Email from Tim Sullivan to Andy Goldsmith re meeting at Midwinter with Smile Source		4504 07-14	2101:04-2106:14 4161:08-4163:02	RXD0027	2018.10.11
RX2091	2/8/2017	Email from T. Mauer to M. Mlotek re Smile Source Decision		4504:07-14	4953:08-4956:04		2018.10.11
RX2092	1/12/2016	Email from Trevor Maurer to Tim Sullivan re Smile Source		4504 07-14	4177:10-4178:16 4950:12-4951:20	RXD0027	2018.10.11
RX2093	4/3/2018	Smile Source Franchise Disclosure Statement		4504:07-14	N/A		
RX2094	4/11/2017	Smile Source Franchise Agreement		4504 07-14	N/A		
RX2095	4/29/2015	Email from Joe Cavaretta to Kathleen Titus RE: agenda items		4504 07-14	N/A		
RX2096	3/5/2015	Email from J. Carlson to E. Nuss, D. Jacklin, K. Upchurch, J. Harmon re: Hello John		4504 07-14	N/A		
RX2097	1/29/2015	Email from Joe Cavaretta to Tim Sullivan and John Chatham RE: Dental Gator		4504 07-14	4118:06-4120:24		
RX2098	3/3/2016	Email string from Glenn Showgren to Evet Dickinson, cc Kathleen re Henry Schein Presentation; The Henry Schein Connection, Connecting Practice Care to Patient Care attached		4504 07-14	N/A		
RX2099	8/24/2015	Calendar invitation from Wendy Rouse to Tim Sullivan, Dave Steck, Joe Cavaratta, Brian Brady re Breakaway Dental Review		4504 07-14	N/A		
RX2100	2015	Breakaway Alliance Dental Supplies Support Program presentation		4504 07-14	N/A		
RX2101	1/26/2016	Email from Tim Sullivan to Wendy Rouse re buying groups and lgp HSD and SM docx; Attachment Henry Schein, Inc.'s Buying Groups Info		4504 07-14	N/A		
RX2103	4/16/2014	Email from Kip Rowland to Kathleen Titus and Emily Kerr RE: New Ship Location		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2105	5/12/2014	Email From K. Titus To C. Rogars (CC J. Cavaretta, A. Hight) re: Floss dental		4504-07-14	5212:05-5216:20		
RX2106	5/19/2014	Email from J. Harmon to K. Titus (CC: J. Cavaretta, K. Upchurch) re: Utah co-op		4504 07-14	N/A		
RX2107	5/1/2012	Washington Association of Community and Migrant Health Centers Supply, Equipment, and Repair Service Agreement with Henry Schein		4504 07-14	N/A		
RX2108	9/8/2014	Email from Mike Trautman to Tim Sullivan, Dave Steck, John Chatham, Kevin Burniston, Joe Cavaretta, and Jake Meadows RE: [FWD: Kois Center > Dental Supplies > Response Requested]		4504 07-14	N/A		
RX2112	11/8/2013	Email from Joe Cavaretta to Glenn Showgren, Dean Kyle, Randall McLemore, and Michael Herrin re insights from a TDA board member		4504 07-14	N/A		
RX2113	3/17/2015	Email From J. Cavaretta To K. Burniston re: Kois Tribe Membership Program Launch		4504 07-14	N/A		
RX2114	2/21/2015	Email from Joe Cavaretta to Kathleen Titus Re: Weekly update SEE BREAKAWAY info below		4504 07-14	N/A		
RX2115	5/26/2015	Email from Joe Cavaretta to Betty Unger re Unchained/Schein Package		4504 07-14	N/A		
RX2116	12/8/2015	Email from Joe Cavaretta to Jake Meadows re Smile Source Proposal		4504 07-14	4177:02-09	RXD0027	
RX2118	1/26/2016	Henry Schein Memo listing buying groups and Schein teams handling relationships		4504 07-14	N/A		
RX2120	4/24/2014	Email from Kathleen Titus to Dean Kyle re Colorado Community Health Network member newsletter launch and HS contribution		4504 07-14	5208:20-5212:04		
RX2121	11/21/2014	Email from G. Showgren to M. Lowrey re: John Kois		4504:07-14	N/A		
RX2122	4/10/2014	Email from John Cox to Joe Cavaretta (cc Tim Sullivan, Dave Steck) re Texas Dental Association		4504 07-14	N/A		
RX2123	7/18/2014	Email From K. Titus To J. Cavaretta, K. Upchurch (CC J. Harmon) re: Co-Op summary of conference call		4504 07-14	N/A		
RX2125	6/16/2011	Email from J. Cavaretta to B. Brown, A. Myers (CC: J. Harmon, M. MacMillan, J. Meadows) re: Campaign - Sultan Flash Tips		4504 07-14	N/A		
RX2126	6/23/2015	Email from Joe Cavaretta to Koren Diamond RE: Introduction		4504:07-14	N/A		
RX2128	3/3/2016	Email from Steve Kess to Dave Steck, cc Tim Sullivan, Joe Cavaretta, Paul hunch, Jake Meadows, Glenn Showgren re meeting with CDA		4504 07-14	N/A		
RX2129	2/23/2016	Email from Evet Dickinson to Glenn Showgren, cc Kathleen Titus, Dave Steck re TDSC - In Person Interview		4504 07-14	N/A		
RX2130	3/3/2016	Email from Dave Steck to Tim Sullivan, Joe Cavaretta, Paul Hinsch, Jake Meadows, Glenn Showgren, Steve Kess re Meeting with CDA		4504 07-14	N/A		
RX2131	12/1/2015	Email from Evet Dickinson to Kathleen Titus re TDSC Dental Supply RFP - Status		4504 07-14	N/A		
RX2132	10/13/2015	Email from Kathleen Titus to Evet Dickinson, cc Glenn Showgren re Follow-up from our meeting - Top 150 Private Label; Top 150 Private Brand DSL items Excel spreadsheet attached		4504 07-14	N/A		
RX2133	3/7/2016	Email from Joe Cavaretta to Tim Sullivan re request to have Kip Rowland remain part-time in MM		4504 07-14	N/A		
RX2134	1/27/2016	Email from Brian Brady to Tim Sullivan re buying groups and Igp HSD and SM docx		4504 07-14	N/A		
RX2135	1/26/2016	Email from Brian Brady to Tim Sullivan re Smile Source proposal		4504 07-14	N/A		
RX2136	12/20/2015	Draft letter from Tim Sullivan to Trevor Maurer explaining benefits of Primary Vendor Agreement (PVA)		4504 07-14	N/A		2018.10.30
RX2137	1/7/2016	Email from Kathleen Titus to Tim Sullivan re TDSC Dental Supply RFP - Henry Schein		4504 07-14	N/A		
RX2139	10/11/2011	Letter from Andy Eberhardt (Nevada Dental Cooperative) about a formalized partnership with Henry Schein		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2140	12/24/2013	Email from D. Kyle to B. Bergman (CC: J. Cavaretta) re: Dental Cooperative of New Mexico		4504 07-14	N/A		
RX2141	6/10/2014	Email from J. Meadows to J. Cavaretta re: Steadfast Medical GPO		4504 07-14	N/A		
RX2143	7/21/2015	Email from Jim Breslawski to Jake Meadows and Hal Muller re GA Dental Board		4504 07-14	N/A		
RX2145	1/20/2014	Email from Joe Cavaretta to Karoline Heytens re Nevada Dental Co-Op rebate		4504 07-14	N/A		
RX2147	7/17/2014	Email From J. Cavaretta To T. Sullivan re: FWD Dental Cooperative and Henry Schein (image003.jpg attached)		4504 07-14	N/A		
RX2148	6/20/2015	Email from Dave Steck to Brian Brady, Dave Steck re The Dentists Service Company		4504 07-14	N/A		
RX2149	10/12/2015	Email From D. Steck To P. Hirsch, J. McCloskey, B. Brady, T. Sullivan (CC J. Cavaretta, J. Meadows, R. Rozin) re: Buying Group Proposal		4504 07-14	N/A		
RX2150	1/12/2016	Email from Tim Sullivan to Jim Breslawski re Smile Source Proposal		4504 07-14	N/A		
RX2151	12/20/2015	Smile Source Proposal (Letter to Trevor Maurer)		4504 07-14	N/A		2018.10.30
RX2152	1/26/2016	Email from Tim Sullivan to Jake Meadows, Joe Cavaretta, Dave Steck, and Brian Brady re Smile Source call		4504 07-14	4178:21-4180:10	RXD0027	
RX2153	11/20/2013	Email from B. Bergman to D. Kyle re: Dental Cooperative of New Mexico		4504 07-14	N/A		
RX2154	4/4/2014	Email from Dave Steck to Joe Cavaretta, Tim Sullivan, Dave Steck re April 3 TDA/Schein Meeting		4504 07-14	N/A		
RX2155	6/20/2015	Email from J. Cavaretta to T. Sullivan (CC J. Chatham, E. Nuss, J. Breslawski, S. Kess, D. Steck, J. Meadows) re: The Dentists Service Company		4504 07-14	N/A		
RX2156	1/31/2011	Electronic invitation from Tim Sullivan to Chuck Cohen: CFC & Tim Sullivan		4504:07-14	N/A		
RX2157	11/5/2013	Robert Anderson email to Rusty Kratochvii re Newport Buying Group		4504:07-14	N/A		
RX2158	2/20/2013	Email from Brandon Bergman to Roderic Dolk re Brenton Mason dental co-op		4504 07-14	N/A		
RX2159	5/3/2016	Email From K. Titus To K. Upchurch, J. Cavaretta (CC B. Brady) re: Buying Group		4504 07-14	N/A		
RX2160	6/13/2016	Email from Trevor Maurer to J. Guidie (Smile Source), Joe Cavaretta, and Brian Brady re Smile Source & Henry Schein meeting		4504 07-14	4180:14-21 4951:21-4952:18	RXD0027	
RX2161	11/19/2015	Email from Andrea Hight to Kathleen Titus, Brian Brady, cc Jason Krause re Quick ?		4504 07-14	N/A		
RX2162	8/19/2015	KlearImpakt Primary Vendor Agreement		4504 07-14	5324:14-5325:02 5501:10-5502:07		2018.10.30
RX2164	8/24/2015	Email From K. Titus To B. Brady re: Groups - important		4504:07-14	N/A		
RX2166	7/27/2016	Email from H. Muller to M. Penrose re: Alpha Omega		4504:07-14	N/A		
RX2167	4/28/2016	Email From J. Meadows To J. Chatham re: contract? (Potomac Valley Dental Care)		4504 07-14	N/A		
RX2168	5/8/2015	Email From J. Meadows To J. Chatham re: practice stats		4504:07-14	N/A		
RX2169	1/26/2015	Email from Tim Sullivan to Dave Steck, Jake Meadows, Kam Gantos re Dental Gator		4504 07-14	N/A		
RX2170	11/19/2015	Email from Russ Baker to Pat Patterson, Frauke Aarnick, and Jake Meadows re Buying Groups and State Associations; Memo Re GDA.pdf attached.		4504 07-14	N/A		
RX2172	10/20/2015	Email from Jake Meadows to Jeff Chatham re Attached Image		4504 07-14	2503:12-2510:25		
RX2174	11/20/2013	Email From M. DeMonaco To K. McPartlin re: Unified Smiles - Background Very Important		4504 07-14	N/A		
RX2180	2/8/2016	Board of Directors meeting powerpoint presentation - 2016 budget summary		4504 07-14	N/A		2018.10.30

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2183	10/10/2011	Text from C. Cohen to 4c54b051-b551-4262-b042-67110e7750d3 re: "BTW, I love the way that the Sullivan Foundation/DTAF joint scholarship program has turned out. Well done. I'm going to talk with my dad about doing some"		4504 07-14	N/A		
RX2185	1/3/2016	Text from Tim Sullivan to @iMessage: +14149758377 re: "I think we would both rather lose tonight. You win and you get red hot Seattle and we get Redskins. Go Vikings. (I really don't mean that)"		4504 07-14	N/A		
RX2186	2/20/2012	Text from C. Cohen to 4c54b051-b551-4262-b042-67110e7750d3 re: "You hired all of my head cases in 2010, I don't need another."		4504 07-14	N/A		
RX2187	3/2/2012	Text from C. Cohen to 4c54b051-b551-4262-b042-67110e7750d3 re: "Tim: You asked me to let you know re Anne Cox. We are hiring her, starts next week. Thanks, cfc"		4504 07-14	N/A		
RX2188	3/2/2012	Text from Tim Sullivan to Chuck Cohen saying he will call shortly		4504 07-14	N/A		
RX2189	6/13/2012	Text from C. Cohen to 4c54b051-b551-4262-b042-67110e7750d3 re: "Listen, if it wasn't for us, Patterson would smoke you guys. You're lucky to have us! :-). Thanks."		4504 07-14	N/A		
RX2190		Document w/ details about conference call re: PVA Review (four word docs and one email containing narrative from KT attached)		4504 07-14	N/A		
RX2192		Performance Interview Planning Checklist - Exclusive XXXXX (Customer) Program		4504 07-14	N/A		
RX2193		Henry Schein, Inc. I Jolly Family Dentistry Prime Managed Group Dental Supplier Distributor Agreement ("Agreement")		4504 07-14	N/A		
RX2194		Performance Interview Planning Checklist - Exclusive XXXXX (Customer) Program		4504 07-14	N/A		
RX2195		Henry Schein, Inc. I Jolly Family Dentistry Prime Managed Group Dental Supplier Distributor Agreement ("Agreement")		4504 07-14	N/A		
RX2196	11/11/2014	Henry Schein, Inc. I Jolly Family Dentistry Prime Managed Group Dental Supplier Distributor Agreement ("Agreement")		4504 07-14	N/A		2018.10.30
RX2197	10/22/2014	Email from Tim Sullivan to Wendy Rouse Re: Chagger - Henry Schein Deck attaching Dental Program Invitation and Equalizer Bios		4504 07-14	254:18-256:19 293:12-294:21 4220:09-4224:17	RXD0001	
RX2198	11/19/2015	Email from Brian Brady to To Sullivan and Joe Cavaretta (CC Dave Steck and John Chatham) re meeting with Smile Source		4504 07-14	N/A		
RX2199	1/26/2016	Email From C. Bevenue to P. Vega (CC R. McLemore, A. Hight) re: Dental Office Program		4504 07-14	N/A		
RX2201	4/28/2014	Email from Dean Kyle to Kathleen Titus (CC Joe Cavaretta) re Joe Cavaretta being in Dallas and Steadfast Medical		4504 07-14	5255:06-5259:24		
RX2202	5/12/2014	Email From K. Titus To R. Foley (CC J. Cavaretta) re: Joe Cavaretta will be in Dallas May 8,9 and is hoping to meet with you then...		4504 07-14	N/A		
RX2203	5/8/2014	Email from K. Titus to R. Foley re: Joe Cavaretta will be in Dallas and is hoping to meet with you then...		4504 07-14	N/A		
RX2204		Steadfast Accounts Spreadsheet		4504 07-14	N/A		
RX2205	5/29/2014	Email from Kathleen Titus to Jeff Harom and Joe Cavaretta (CC Kevin Upchurch) re Dental Co-Op and Schein		4504 07-14	N/A		
RX2206	6/13/2014	Email From B. Brady To K. Titus (CC J. Cavaretta, G. Showgren, L. Owyang) re: some questions to consider...		4504 07-14	N/A		
RX2207	6/16/2014	Email from Kathleen Titus to Dean Kyle and Joe Cavaretta re Joe Cavaretta being in Dallas		4504 07-14	N/A		
RX2208	6/16/2014	Email from K. Titus to J. Cavaretta and D. Kyle re: Joe Cavaretta will be in Dallas... follow to my email of 4/22/14		4504 07-14	5259:25-5263:02		
RX2209	6/16/2014	Email From K. Titus To J. Cavaretta, J. Harmon (RM) re: Dental Co-Op and Schein - some background on my recent activity...		4504 07-14	N/A		
RX2210	7/14/2014	Email From K. Titus To B. Brady (CC J. Cavaretta, G. Showgren, N. Lena) re: Our meeting today - PGMS Agreement for your review		4504 07-14	N/A		
RX2212	8/6/2014	Email from Dave Steck to Joe Cavaretta re Smile Source Presentation		4504:07-14	N/A		
RX2213	2/13/2014	Henry Schein and Smile Source Partnership Proposal presentation		4504 07-14	2140:02-2145:23	RXD0001	

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2214	9/2014	Collaboration Meeting Summary		4504:07-14	N/A		
RX2215	9/17/2014	Email from Kathleen Titus to Joe Cavaretta and Keith Gauzza re "an example of a very restricted PVA for a customer that has a 'GPO' link"		4504 07-14	N/A		
RX2216	6/9/2015	Email From K. Titus To B. Brady (CC J. Cavaretta) re: KlearImpakt Presentation (KI HS Present (2).pdf attached)		4504 07-14	N/A		
RX2217	6/9/2015	Henry Schein Partnership Presentation		4504:07-14	N/A		
RX2218	7/15/2015	Email From B. Brady To J. Cavaretta re: Confidential GPO Listing		4504 07-14	N/A		
RX2220	8/17/2015	Email from K. Titus to H. Ferrari-Nguyen, N. Lena and J. Cavaretta re: KlearImpakt - New partnership with buying group with KlearImpakt PVA 6-15, Membership Enrollment Form 8-14, and KI Grp Prac Cover Sheet attached		4504 07-14	N/A		
RX2221	8/17/2015	KlearImpakt and Henry Schein Prime Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2222	8/13/2015	Henry Schein and KlearImpakt Membership Enrollment Form		4504:07-14	5503:11-5504:15		
RX2223		Benefits for KlearImpakt Members		4504 07-14	N/A		
RX2224	10/20/2015	Email From J. Chatham To J. Cavaretta re: CR Newsletter - October 2015		4504 07-14	N/A		
RX2225	10/24/2015	Email from Andrea Hight to Joe Cavaretta re meeting on buying groups		4504:07-14	N/A		
RX2226	10/30/2015	KlearImpakt FSC testimonial		4504 07-14	N/A		
RX2227	1/4/2016	Email from Glenn Showgren to Joe Cavaretta re Privileged and Confidential FW: TDSC Dental Supply RFP - Henry Schein		4504 07-14	N/A		
RX2228	7/14/2014	Email from Joe Cavaretta to Brian Brady, Gleen Showgren re Our meeting today - PGMS Agreement for your review		4504 07-14	5605:25-5610:22		
RX2229	7/23/2015	Email from Joe Cavaretta to wendy@bigbuzzinc.com re LOI for Unchained Dentistry; Draft letter of intent from Henry Schein to Wendy Phillips attached		4504 07-14	N/A		
RX2230	11/10/2015	Email from J. Cavaretta to W. Rouse and T. Sullivan re: Smile Source with Smile Source.xlsx attached		4504 07-14	N/A		
RX2231	11/10/2015	HSD Partnership Program presentation		4504 07-14	N/A		
RX2232	10/20/2015	Email from John Chatham to Stanley Bergman, Jim Breslawski, Tim Sullivan, Dave Steck, Eric Nuss re CR Newsletter - October 2015		4504 07-14	4230:02-4235:10 4342:04-4343:08		
RX2234	1/27/2016	Email from Glenn Showgren to Evet Dickinson, cc knut@km-strategy.com, Kathleen Titus re Henry Schein RFP Response; Response to Request for Proposal The Dentists Service Company (TDSC) and TDSCDentalSupplies 00116 attached		4504 07-14	N/A		2018.10.30
RX2235	2/4/2013	Email from Michael Stanislawski to Brandon Bergman re New Mexico Dental Cooperative purchasing		4504 07-14	2392:12-22		
RX2236	7/16/2013	Email from Donna Nelson to Brandon Bergman (CC Maureen Chobanoff) re Henry Schein New Mexico		4504 07-14	N/A		
RX2237	4/18/2016	Email from Kathleen Titus to Brian Brady re AACHC sponsor-membership opportunity		4504 07-14	N/A		
RX2241	12/16/2015	Email from Brian Brady to John Chatham re Smile Source proposal		4504 07-14	N/A		
RX2242		Smile Source Proposal document		4504:07-14	N/A		
RX2243	8/27/2015	Email From A. Hight To K. Titus, B. Brady, J. Krause re: Groups - important - Council Connections 3 year trending report attached		4504 07-14	N/A		
RX2244	4/5/2016	Email from Dave Steck to Glenn Showgren re TDSC Supplier Agreement - HS		4504 07-14	N/A		
RX2245	4/5/2016	Email from Stephen Brown to Evet Dickinson, Jennifer Ferrero, Walter Siegel, Dave Steck, Joe Cavaretta, Jennifer Mason re TDSC Supplier Agreement - HS		4504 07-14	N/A		
RX2246	4/1/2016	Email from Evet Dickinson to Glenn Showgren, cc Kathleen Titus re TDSC Supplier Agreement - HSI; Draft The Dentists Service Company Supplier Agreement between The Dentists Service Company and Henry Schein, Inc. attached		4504 07-14	N/A		
RX2247	1/26/2012	Dental One and Henry Schein Prime Vendor Agreement		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2248	9/24/2014	Email from Hal Muller to Kevin Cain (CC Daniel Hobson, Colan Rogers, and Dave Steck) re Special Markets at Henry Schein		4504 07-14	N/A		
RX2249	5/12/2016	Memo from Brian Brady to HSD Management Re: Buying Group/Onboarding Maintenance Protocol		4504 07-14	N/A		2018.10.30
RX2250	5/10/2016	Klearimpakt Primary Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2251	10/9/2015	Email from Jason Krause to Andrea Hight, Michael Porro, Marcy Roym - Exhibit 25		4504 07-14	N/A		
RX2253	2/17/2015	Stark County Dental Society, Corydon Palmer Dental Society, Long Island Dental Forum, and Dentists for a Better Huntington agreements with Henry Schein		4504 07-14	N/A		
RX2254	9/19/2015	Email from Jason Krause to Jake Meadows re Clarity on Buying Groups		4504:07-14	N/A		
RX2255	4/1/2013	Ortho Group letter to Shulman Group re Customer Discount		4504:07-14	N/A		
RX2256	4/1/2013	2013 Schulman Group Partnership Program Form		4504:07-14	N/A	RXD0001	
RX2257	11/5/2014	Email from Michael Porro to Jake Meadows re Atlantic Dental Care		4504 07-14	N/A		
RX2258	8/14/2015	Email from Michael Porro to Rusty K and Robert Anderson re Buying Groups		4504:07-14	N/A		
RX2259	11/15/2014	Henry Schein list of GPO's by Division		4504:07-14	N/A		
RX2260	2010	Smile Source! 2010 Business Review Meeting - Henry Schein		4504:07-14	N/A		
RX2261	8/15/2015	Corydon Palmer Dental Society / Henry Schein agreement		4504 07-14	N/A		2018.10.30
RX2262	8/12/2015	2015-2016 Terms of Agreement - Corydon Palmer Dental Society and Henry Schein Dental		4504 07-14	N/A		2018.10.30
RX2263	12/10/2015	Dr. Alan Farber / Long Island Dental Forum / Henry Schein agreement		4504 07-14	N/A		2018.10.30
RX2264	2009	Dentists for a Better Huntington partnership support program		4504 07-14	N/A		
RX2265	5/10/2016	Klearimpakt primary vendor agreement		4504 07-14	N/A		2018.10.30
RX2266	6/1/2016	Breakaway Practice primary vendor agreement		4504 07-14	N/A		2018.10.30
RX2267	1/3/2015	Council Connections / Henry Schein agreement		4504:07-14	N/A		2018.10.30
RX2268	3/25/2003	Arizona - Henry Schein, Inc / Community Health Centers Collaborative Ventures, Inc. Supply Agreement		4504 07-14	N/A		
RX2269	2016	Colorado Community Health Network Primary Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2270	10/3/2005	Illinois Primary Health Care Association, Louisiana Primary Care Association, Texas Association of Community Health, and Washington Association of Community and Migrant Farm Workers agreements with Henry Schein		4504 07-14	N/A		
RX2271	2/5/2016	12/1/10 Texas Association of Community Health Centers (TACHC) Addendum to Prime Dental Supplier Distributor Agreement, Primary Dental Supplier Agreement Extension		4504 07-14	N/A		
RX2272	5/12/2011	Texas Association of Community Health Centers Supply, Equipment and Repair Service Agreement		4504 07-14	N/A		
RX2273	5/1/2005	Washington Association of Community and Migrant Health Centers Group Purchasing Agreement		4504 07-14	N/A		
RX2274	12/8/2014	Advantage Dental Group / Henry Schein agreement		4504 07-14	N/A		2018.10.30
RX2275	1/1/2015	CommonWealth Purchase Group and Henry Schein Group Purchasing Agreement		4504 07-14	N/A		2018.10.30
RX2276	3/19/2014	Orthosynetics Dental Supply Agreement		4504:07-14	4625:08-4629:24		2018.10.30
RX2277	8/1/2013	Text from C. Cohen to +14149758377 re: "Funniest conversation we had here was how to track pens that are given to offices... I told him he was crazy and put him back in his cage for a timeout. You can't make this shit up."		4504 07-14	N/A		
RX2279	5/12/2016	Memorandum from Brian Brady to HSD Management re Buying Group Onboarding / Maintenance Protocol		4504 07-14	N/A		
RX2280	7/17/2015	Email from A. Hight to R. Foley re: MB2 and what Dr. T said about being a GPO		4504 07-14	N/A		
RX2281	8/13/2014	2015 Business Planning - Special Markets Director's Meeting powerpoint presentation (GPOs mentioned - Advantage Dental, Heartland Dental, MB2, Orthosynetics)		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2282	4/1/2014	Louisiana Primary Health Care Association Primary Supplier Agreement for Dental Products		4504 07-14	N/A		2018.10.30
RX2283	6/10/2014	Email from Andrea Hight to Randy Foley, Hal Muller re MB2 and Dental Gator: All is Good		4504 07-14	N/A		
RX2284	2/24/2014	Email from Bill Harrison to Randy Foley re meeting with Smile Source		4504 07-14	N/A		
RX2285	2/19/2014	Email from Dave Steck to Tim Sullivan, Randy Foley, cc Hal Mueller, Dave Steck, John Chatham re Did you meet with Smile Source		4504 07-14	N/A		
RX2286	1/17/2011	Email from Todd Nickerson to John Chatham, Alicia Hamlin, Tracy Moody, G. Ellisor (Vision Source) (CC Tim Sullivan, Hal Muller, Randy Foley, and Jim Philhower) re Henry Schein and Smile Source meeting		4504 07-14	N/A		
RX2287	9/26/2014	Minnesota Multistate Contracting Alliance for Pharmacy / Henry Schein agreement		4504 07-14	N/A		2018.10.30
RX2288	9/9/2015	Email from Bill Harrison to Dave Muller, Angelica Logiudice, Sam Mobini, Scott Janczak, Tracy Lentz, Elizabeth Carlucci, Erica Staab, Deirdre McCormick, Jasmine Zayas, Adrien Theodore, and Paul Berkey (CC Randy Foley) re Dave Muller's account review		4504 07-14	N/A		
RX2289	5/24/2012	Dental Partners of Georgia and Henry Schein Service Agreement		4504 07-14	N/A		
RX2290	5/19/2011	Email from V. Taylor to P. Reece, C. Briggs, A. Hight (CC: L. Lehman, R. Foley) re: Advantage Dental Dentrix Enterprise Purchase; Advantage Dental - DXE Proposal 5-18-11.pdf attached		4504 07-14	N/A		
RX2291	8/15/2011	Advantage Dental / Henry Schein Supply and Dentrix Enterprise Conversion Agreement		4504 07-14	N/A		
RX2292	6/30/2003	Council Connections Dental Supplies & Equipment Contract		4504:07-14	N/A		
RX2293	7/1/2014	Council Connections - Amendment to Group Purchasing Agreement By and Between Council of Community Clinics Service Corp. and Henry Schein		4504 07-14	N/A		
RX2294	10/21/2014	Email from Hal Muller to Randy Foley re Dental Gator		4504:07-14	4572:11-4573:18		
RX2295	3/20/2014	Henry Schein Inc. / MB2 Prime Dental Supplier and Equipment Agreement		4504 07-14	N/A		2018.10.30
RX2296	3/3/2015	Email from Randy Foley to Hal Muller and Bill Harrison re Tralongo		4504 07-14	N/A		
RX2298	12/4/2012	Illinois Primary Health Care Association Business Membership Application (Andrea Hight's application)		4504 07-14	N/A		
RX2299	7/29/2011	Email from Randy Foley to Debbie Torgersen re Dental Group JE 611158 (the Dental Group)		4504 07-14	N/A		
RX2301	1/26/2011	Service Agreement for Smile Source		4504 07-14	N/A		
RX2302	7/8/2016	Email from Karoline Heytens to Randy Foley re Orthosynetics Grouping - Please Advise		4504 07-14	N/A		
RX2303	7/18/2016	Email from Randy Foley to Hal Muller re Dental Gator, Dental Partners of Georgia, and Orthosynetics		4504 07-14	N/A		
RX2304	4/5/2013	Email from Randy Foley to Hal Muller re Atlantic Dental Care - HOT		4504 07-14	N/A		
RX2305	4/5/2013	Email from Randy Foley to Hal Muller re "Atlantic Dental Care - HOT"		4504 07-14	N/A		
RX2306	10/3/2011	Henry Schein Inc. / Louisiana Primary Care Association Supply Agreement		4504 07-14	N/A		
RX2307	7/9/2014	Email from Randy Foley to Hal Muller, Daniel Hobson re MB2		4504:07-14	N/A		
RX2309	6/13/2011	Council Connections - Amendment to Group Purchasing Agreement By and Between Council of Community Clinics Service Corp. and Henry Schein, Inc. (7/1/11 - 6/30/12)		4504 07-14	N/A		
RX2311	5/3/2011	Email from Hal Muller to Philip Toh, John Boresi, Randy Foley, and Kathleen Titus (CC Paul Berkey and Annette Martino) re Business Intelligence Group/Right Dental Group summary		4504 07-14	N/A		
RX2312	12/6/2011	Email from Hal Muller to Randy Foley re new options		4504:07-14	N/A		
RX2313	2/12/2014	Email from Randy Foley to Dave Steck (CC Hal Muller) re Smile Source question		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2314	1/27/2012	Henry Schein, Inc. & Comfort Care Dentistry Management, LLC Prime Vendor Agreement		4504 07-14	N/A		
RX2315	12/21/2011	Email from R. Foley to R. Durante re: Request for Meeting (Dec12-22-Janet Knysz)		4504 07-14	N/A		
RX2316	12/21/2011	Email from Randy Foley to Hal Muller and Debbie Torgersen-Foster (CC John Boresi) re Dental Smart meeting follow-up		4504 07-14	N/A		
RX2317	4/19/2012	Email from Randy Foley to Debbie Torgersen-Foster re Q1 movement between SM/HSD		4504 07-14	N/A		
RX2318	2/1/2013	Henry Schein, Inc. / Dental Care Alliance Dental Supply Agreement		4504 07-14	N/A		
RX2319	7/3/2012	Email from Debbie Torgersen-Foster to Ron Smith (CC Randy Foley) re key account changes for Q2 attaching Key Accts Q2 2012 w changes for ron smith spreadsheet		4504 07-14	N/A		
RX2320	2/19/2010	Henry Schein Inc. / Intermountain Dental Associates Dental Supply Agreement		4504 07-14	N/A		
RX2321	7/30/2013	Council Connections - Amendment to Group Purchasing Agreement By and Between Council of Community Clinics Service Corp. and Henry Schein, Inc. (7/1/13 - 6/30/14)		4504 07-14	N/A		
RX2322	7/1/2006	Henry Schein & Illinois Primary Health Care Association Group Purchasing Agreement		4504 07-14	N/A		
RX2323	5/9/2014	Email from Chuck Jenkins to Hal Muller and Randy Foley RE: Breakaway Dental - Urgently Seeking Info on the Corporate Relationship		4504 07-14	N/A		
RX2324		Breakaway, KlearImpakt, Tralongo & Smile Source Buying Group Information		4504 07-14	N/A		2018.10.30
RX2327	2/9/2012	Email from Todd Nickerson to Tim Sullivan, John Chatham, Kevin Burniston re: Smile Source		4504 07-14	N/A		
RX2328	11/20/2013	Email from Andy Goldsmith to Tim Sullivan and John Chatham re SmileSource and meeting at the convention		4504 07-14	1506:05-1507:06 2137:23-2145:24 4165:18-4167:05	RXD0001 RXD0027	
RX2332	9/10/2014	Email from Dave Steck to Tim Sullivan, John Chatham, Hal Muller, and Jim Breslawski re Smile Source presentation/proposal with attachment		4504 07-14	N/A		
RX2333	11/19/2012	Email from S. Anderson to T. Sullivan (CC J. Breslawski, S. Anderson) re: Patterson Companies CEO Elected Chairman of the Board Of The Dental Trade Alliance (web)		4504 07-14	N/A		
RX2334	7/23/2015	Email from Joe Cavaretta to Eric Nuss re Dentistry Unchained		4504 07-14	N/A		
RX2335	6/5/2015	Email from Stanley Bergman to Brian Brady (CC Tim Sullivan, Mark Mlotek, Jim Breslawski, David Brous, and Dave Steck) re Smile Source		4504 07-14	N/A		
RX2336	3/18/2014	Email from Dave Steck to Tim Sullivan (CC John Chatham and Becky Schmidkonz) re Smile Source final presentation with attachment		4504 07-14	N/A	RXD0001	
RX2337	12/5/2016	Email From J. Cavaretta To T. Mauer re: Smile Source Pricing Agreement		4504 07-14	N/A		
RX2338	10/6/2014	Email from John Chatham to Hal Muller, cc Steve Kess, Tim Sullivan, Joe Cavaretta, Dave Steck, Wendy Rouse, Chris Peterson, Gerard Meuchner, Michael Ettinger re CDA Follow Up		4504 07-14	3719:08-3721:15 4231:01 4235:11-4239:06		
RX2339	10/6/2014	Email from John Chatham to Steve Kess, Tim Sullivan, Hal Muller, Joe Cavaretta, and Dave Steck (CC Wendy Rouse, Chris Peterson, Gerard Meuchner, and Michael Ettinger) re CDA follow-up		4504 07-14	N/A		
RX2340	7/10/2014	Email From K. Titus To J. Cavaretta (CC G. Showgren, B. Brady) re: Our Meeting Today - PGMS Agreement for your review (PacificGroupManagementServicesAgreement07014.docx)		4504 07-14	N/A		
RX2341	4/1/2015	Ascension Health Resource and Supply Management Group Distribution Services Agreement		4504 07-14	N/A		2018.10.30
RX2342	1/27/2009	Henry Schein, Inc. & Commonwealth Purchasing Group Supply Agreement		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2343	2015	Henry Schein Unleash the Power 2015 Field Management Meeting Presentation		4504 07-14	N/A		
RX2344	10/28/2018	Email from John Chatham to Tim Sullivan with CC to Dave Steck, Michael Ettinger, Mark Mlotek, and Jim Brewlewski Re Follow Up for Equalizer Program		4504 07-14	N/A		
RX2346	10/13/2010	Email Invite from Theresa Huff re HSI/Smile Source Conference Call with Breslawski, Muller, Sullivan, Randy Foley, Ellisor, and Moody		4504 07-14	N/A	RXD0027	
RX2347	6/29/2015	Email from Kip Rowland to Kathleen Titus, JoAnn Levandowski, Mike Heath and Joe Cavaretta Re: Thank you and Updated PVA SIGNED!		4504 07-14	5329 09-25		
RX2348	6/15/2015	Henry Schein Breakaway Alliance Prime Managed Group Dental Supplier Distributor Agreement		4504 07-14	5330:02-5331:23 5600:18-5601:05		2018.10.30
RX2349	10/20/2011	Email from Time Sullivan to Dave Steck, Paul Hinsch and John Chatham Re: UDA		4504 07-14	4239:07-4240:19	RXD0001	
RX2350	7/1/2011	Universal Dental Alliance: Benefits of the UDA		4504:07-14	4240:20-4241:16		
RX2351	3/1/2017	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		
RX2352	1/18/2006	Long Island Dental Forum and Henry Schein Prime Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2353	3/1/2017	Henry Schein, Inc. & Smile Source Primary Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2354	3/1/2017	Smile Source Primary Vendor Agreement (final)		4504:07-14	N/A		2018.10.30
RX2355	12/7/2016	Email from B. Brady to T. Sullivan, J. Cavaretta, M. Mlotek (CC D. Steck, R. Rozin, A. J. Caffentzis, C. Tamas, J. Breslawski) re: Smile Source and other potential "Group" Agreements; Smile Source PVA_A_2016.pdf attached; Smile Source_A_Henry Schein Dental DEC 2016.pdf attached		4504 07-14	N/A		
RX2356	11/10/2016	Primary vendor agreement between Henry Schein and Smile Source		4504 07-14	N/A		2018.10.30
RX2357	12/7/2016	Henry Schein Smile Source Proposal - December 2016		4504:07-14	N/A		
RX2358	9/1/2016	Alternate Purchasing Channel Monthly Snapshot Report		4504:07-14	N/A		2018.10.30
RX2359	11/30/2016	Henry Schein, Inc. / MB2 Dental Solutions Prime Dental Supplier Agreement		4504 07-14	2211:06-2214:17		2018.10.30
RX2360	11/20/2015	Email from S. Kess to T. Sullivan (CC B. Lieberthal, D. Freidman, S. Bergman, J. Harding, S. Sanders, K. Bunker, D. Brous, M. Mlotek, J. Breslawski, G. Stanley, J. Chatham, C. Kass, J. McDonald) re: Christensen International Study Club -- Summary of Progress		4504 07-14	4103:13-4107:12 4352:03-4356:11		
RX2361	4/4/2010	Email from Tim Sullivan to Jim Breslewski and Dave Steck re April 3 TDA Meeting		4504 07-14	N/A		
RX2362	10/16/2013	Email from Tim Sullivan to Joe Cavaretta, cc Dave Steck re Ron Fernandez Call		4504 07-14	4207:12-4208:21 4340:11-4342:03		
RX2363	4/24/2014	Email from Tim Sullivan to Dave Steck, Joe Cavaretta, Dean Kyle re Dentsply		4504 07-14	N/A		
RX2364	3/3/2015	Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "Did you warm up the Dentsply crowd for me & Paul? I'm nervous about following you, it's like following Elvis on stage! :-)"		4504 07-14	N/A		
RX2365	3/3/2015	Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "Sure that's not true. You killed! Thanks for the heads up. I'm going back to Wilkes-Barre!"		4504 07-14	N/A		
RX2366		Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "Fired Ann Cox? Ehtics?"		4504 07-14	N/A		
RX2367	3/3/2015	Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "Me too. We're @ Deer Valley. You?"		4504 07-14	N/A		
RX2368	3/3/2015	Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "BTW, had bfast with Stan, Jimmy & Mark on Monday. They offered me your job, I turned them down. Too much aggravation! :-). See u in Chicago."		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2369	3/3/2015	Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "Good stuff, enjoy. We're doing Jewish princess skiing where everything is groomed. too bad you're not here, could have skied and had dinner!"		4504 07-14	N/A		
RX2370		Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "You hired all of my head cases in 2010, I don't need another."		4504 07-14	N/A		
RX2371	3/3/2015	Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "Tim: You asked me to let you know re Anne Cox. We are hiring her, starts next week. Thanks. Cfc"		4504 07-14	N/A		
RX2372	3/3/2015	Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: "Am at National Sales Meeting in Dallas, busy plotting your downfall. :-). Let's catch up next week. Thanks."		4504 07-14	N/A		
RX2373	3/3/2015	Text from C. Cohen to 5e474alc-9f5a-4b9e-9aa1-614e53b49c95 re: " Dude, it would be no good for me if you were here. They'd all like you better! Thanks."		4504 07-14	N/A		
RX2374	2/17/2015	Email from S. Anderson to T. Sullivan re: DTA Discussion		4504:07-14	N/A		
RX2375	11/18/2013	Email from S. Anderson to T. Sullivan, (CC M. Augins) re: Attached Image		4504 07-14	N/A		
RX2376	5/26/2012	Email from C. Cohen to T. Sullivan re: A quick favor...		4504:07-14	N/A		
RX2377	4/24/2014	Email from Tim Sullivan to Dave Steck, Joe Cavaretta, Dean Kyle re Dentsply		4504 07-14	N/A		
RX2378	5/6/2014	Email from Cheri Visocky to Randi Grifka, Joe Cavaretta and Burke Spielmann RE: please update to match pricing on these goods 4 office group please confirm		4504 07-14	N/A		
RX2379	11/4/2015	Email From D. Panoro To J. Meadows (CC M. Anderson III (Reg Mgr.), J. Krause, J. Chatham) re: dr norbo and potomac valley group		4504 07-14	N/A		
RX2380	10/23/2015	Email From David Panaro To J. Meadows (CC J. Krause, J. Chatham, R. Anderson III (Reg Mgr.)) re: meeting with henry schein to discuss potomac valley		4504 07-14	N/A		
RX2381	2014	Henry Schein, Mid Market Overview		4504 07-14	3854:14-3855:22 5333:04-5334:02 5334:12-5335:07		
RX2382	11/3/2011	Email from Steve Dutson to Julie Salerno and Joe Cavaretta Re: Dental Co-Op Purchasing Contract/Meeting		4504 07-14	N/A	RXD0001	
RX2383	9/22/2011	Dental Cooperative of Nevada & Henry Schein Dental Purchasing Agreement		4504 07-14	N/A		
RX2384	1/20/2014	Email from K. Heytens to J. Cavaretta re: Nevada Dental Co-op Rebate		4504 07-14	N/A		
RX2385	5/8/2014	Email From K. Titus To: K. Titus, J. Cavaretta re: I haven't heard from you		4504 07-14	5295:07-5296:23		
RX2386	9/15/2015	Email from Tim Sullivan to Dave Steck (CC Joe Cavaretta and Jake Meadows) re buying group meeting		4504 07-14	N/A		
RX2387	9/27/2011	Email from Joe Cavaretta to Dave Steck re Dental Co-Op Purchasing Contract/Meeting; ScheinCo-opNevadaAgreement.pdf attached.		4504 07-14	N/A		
RX2388	9/22/2011	Purchasing Agreement between the Dental Cooperative of Nevada and Henry Schein Dental		4504 07-14	N/A		
RX2389	9/14/2015	Email from Dave Steck to Tim Sullivan, Joe Caveretta, and Jake Meadows re Buying Group Meeting - IH Exhibit 242		4504 07-14	N/A		
RX2390	9/17/2013	Email From T. Hoff To B. Barr, P. Hinsch, D. MicKinley, R. Miranda, G. Stanley, P. Berkey, R. Foley, D. Steck, H. Muller (CC B. Connett, T. Sullivan) re: Medical-Dental GPO Presentation (Medical-Dental GPO 9-19-13.pptx attached)		4504 07-14	N/A		
RX2391	9/18/2013	Henry Schein Medical and Dental Power Point Presentation		4504:07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2392	6/27/2008	Henry Schein Dental Special Markets Collaboration Plan presentation		4504:07-14	2583:06-2590:25 2656:04-2657:13 4108:24-4114:12 5585:24-5587:23		
RX2393	4/3/2015	Email from Steve Perkins to Derita Hopkins (CC Kevin Upchurch) re MeritDent Rebate attaching MeritDent & Henry Schein Purchasing Agreement		4504 07-14	3000:21-3007:04 4243:19-4245:09 5582:16-5583:19		
RX2394	2/7/2012	MeritDent and Henry Schein Purchasing Agreement		4504 07-14	N/A		
RX2395	9/8/2014	Email from J. Meadows to J. Cavaretta re: Kois Center > Dental Supplies > Response Requested		4504 07-14	N/A		
RX2396	3/5/2015	Email from Amanda Holtzman to Laura Meaders, cc Kathleen Titus, Stacy Meadows, Joe Cavaretta, Bill Ryan, Burke Spielmann, Dan Hill, Ray Sanchez re Quatrius **Any update?*		4504 07-14	N/A		
RX2397	2/24/2015	Email from Kathleen Titus to Joe Cavaretta, cc Glenn Showgren re New Account - QUATRIUS LLC \$360K annual, big win!		4504 07-14	N/A		
RX2398	12/22/2011	Email From J. Cavaretta To S. Dutton, D. Zurko re: Merit Dent		4504 07-14	N/A		
RX2400	2/20/2013	Email from Brenton Mason to Roderic Dolk, Jason Chapman, Frank Montoya re (no subject) co-op - Mason Exhibit 4		4504 07-14	2393:09-2397:18		
RX2402	8/26/2015	Email from T. Sullivan to J. Breslawski re: Adec: Sales & Pipeline thru 8/25/15		4504 07-14	3749:17-3752:18		
RX2403	2015	2015 Volume Purchase Agreements - FSC		4504 07-14	N/A		
RX2404	10/22/2014	Email from Jeff Chatham to Bridget Dorsey RE: PEAK group doing buying group buying starting June 1st		4504 07-14	N/A		
RX2405	4/2/2002	Email from H. Muller to S. Kess, S. Bergman, J. Breslawski, M. Racioppi (CC L. Ferraro, R. Miranda, M. Mlotek) re: confidential e-mail		4504 07-14	N/A		
RX2408	5/8/2015	Email from John Chatham to Brian Brad, cc Joe Cavaretta, Jake Meadows, Tim Sullivan, Jim Breslawski, Dave Steck		4504 07-14	N/A		
RX2409	9/24/2014	Email From J. Cavaretta To J. Meadows re: Reminder		4504:07-14	2592:20-2596:08 5589:03-5592:11		
RX2410	7/23/2008	Email from Joe Cavaretta to Jeff Trachtenberg RE: Alpha Omega		4504 07-14	N/A		
RX2411	12/3/2008	Email from J. Cavaretta to T. Sullivan and L. McHugh re: Steadfast Medical		4504:07-14	N/A		
RX2412	7/25/2014	Email from Kevin Upchurch to Karoline Heytons, Joe Cavaretta, and Steve Perkins re Dental Cooperative Rebate - Nevada		4504 07-14	N/A		
RX2414	9/23/2010	Email from Jim Breslawski to Hal Muller (CC Lynne McHugh and Tim Sullivan) re Smile Source		4504 07-14	N/A		
RX2415	7/23/2010	Email from Hal Muller to Jim Breslawski, M. Stanley, Mark Mlotek, cc John Bellerio, Susan Vassallo, Steve Kess re E&I bid		4504 07-14	N/A		
RX2416	12/27/2013	Email from F. Curro to S. Kess, L. Mercado re: Fwd: Pearl Newsletter; winter2008.pdf attached; Henry Schein Letter.docx attached		4504 07-14	N/A		
RX2417	2008	PEARL Network Newsletter		4504 07-14	N/A		
RX2418	12/22/2013	Letter from F. Curro (Director of Pearl Network) to S. Kess proposing a sponsorship of \$50,000/per year for five years for the PEARL Annual Meetings		4504 07-14	N/A		
RX2419	3/19/2014	Email from Becky Schmidkonz to Tim Sullivan and Dave Steck (CC John Chatham) re Smile Source final presentation		4504 07-14	3790 08-25 4170 04-22	RXD0027	
RX2420	2/13/2014	Henry Schein Dental - Smile Source Partnership Proposal presentation		4504:07-14	N/A		
RX2421	4/23/2014	Email from John Chatham to Dave Steck (CC Tim Sullivan) re Smile Source		4504 07-14	4170:25-4173:19	RXD0027	
RX2422	1/27/2011	Email from Dave Steck to Dean Kyle and Tim Sullivan (CC Chris Peterson) re new Smile Source account		4504 07-14	N/A		
RX2424	10/22/2014	Email from B. Chagger to T. Sullivan (CC. W. Rouse, J. Adamski) re: Discussion		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2425	10/28/2014	Email from Q. Ahmed to T. Sullivan (CC Dr. Kois, B. Chagger) re: Follow-Up Call: Equalizer Program; Sullivan Henry Schein Proposal - Initial Supply Deal 10.28.2014.docx attached		4504 07-14	N/A		
RX2426	10/28/2014	Proposal for Henry Schein: Initial Supply Deal - ProCare Dental Services		4504 07-14	N/A		
RX2428	5/8/2014	Email from Steve Perkins to Kevin Upchurch re MeritDent numbers		4504 07-14	N/A		
RX2429	1/26/1999	Henry Schein Welcome & Overview Presentation		4504 07-14	N/A		
RX2430	2011	2011 Volume Purchase Agreements		4504 07-14	N/A		
RX2431	2011	Privileges 2011, Customer Loyalty Program		4504 07-14	N/A		
RX2433	9/15/2015	Email from Jason Krause to Michael Porro and Jake Meadows re GDA Proposal; Key Terms Summary.pdf attached.		4504 07-14	N/A		
RX2434	4/5/2013	Email from Tim Sullivan to Michael Porro, Hal Muller, Dave Steck, Randy Foley, Colan Rogers and Carol Pampel Re: Atlantic Dental Care - HOT		4504 07-14	N/A		
RX2435		Privileges, VPAs, COACH & Customer Benefit Statement		4504 07-14	N/A		
RX2437	7/18/2014	Email From K. Upchurch To J. Harmon, J. Cavaretta (CC K. Titus) re: Co-Op summary of conference call		4504 07-14	N/A		
RX2438	6/7/2013	Email from Stanley Bergman to Kathleen Rolston re SM report for June week 1		4504 07-14	N/A		
RX2439	9/29/2015	Email from Jake Meadows to Marjorie Hahn re Meeting Notes with GDA Proposal and GDA NDA with Schein - Porro Exhibit 14		4504 07-14	N/A		
RX2440	2013	Henry Schein Draft 2013 FSC Compensation Plan		4504:07-14	N/A		
RX2441	2015	2015 Field Sales Consultant Compensation Plan		4504:07-14	N/A		
RX2442	2010	2010 Henry Schein Dental Catalog		4504:07-14	N/A		
RX2443	9/16/2015	Email From K. Titus To H. Muller (CC J. McGarry, A. Hight, K. Rowland, B. Brady, J. Cavaretta, J. Meadows, J. Krause, B. Harrison, E. Kerr) re: Ascension Contract		4504 07-14	N/A		
RX2444	8/18/2015	Email from Brian Brady to Tim Sullivan, John Chatham, Eric Nuss, Dave Steck and Hal Muller RE: Smile Source Update		4504 07-14	4173:21-4174:22 4946:13-4947:09	RXD0001 RXD0027	
RX2445	4/1/2017	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		
RX2446	4/7/2017	Email string from Nick Barenz to Brian Brady re BG Admin Fee Tracker.xlsx		4504 07-14	N/A		
RX2447	5/10/2016	Email from B. Brady to K Titus (CC J. Cavaretta) re: KlearImpakt LLC MAY 2016 docx		4504 07-14	N/A		
RX2448	5/10/2016	Henry Schein buying group cover letter template from Darci Wingard		4504 07-14	N/A		2018.10.30
RX2449	8/19/2015	Email string from Brian Brady to Tim Sullivan re Watchdog Report		4504 07-14	N/A		
RX2450	11/13/2015	Email from Brian Brady to Tim Sullivan (CC Joe Cavaretta) re meeting with Smile Source		4504 07-14	N/A		
RX2451		Smile Source Proposal document		4504:07-14	N/A		
RX2453	1/18/2015	Email from Jeff Reichardt to Jake Meadows re ACE Forum		4504:07-14	N/A		
RX2454	1/12/2006	Email from Tim Sullivan to Jim Breslewski re Smile Source Proposal; Smile Source Proposal_Henry Schein Dental.docx attached.		4504 07-14	N/A		
RX2455	4/26/2016	Email From D. Panoro To J. Chatham re: supply bids for PVDC (PVDC supply list.xls attached)		4504 07-14	N/A		
RX2456	1/26/2016	Excel Spreadsheet of Items Purchased by Category		4504 07-14	N/A		
RX2457	4/11/2016	Email from Joe Cavaretta to Kathleen Titus re Dentistry Unchained Marketplace		4504 07-14	N/A		
RX2458	3/23/2016	Email from Robert Anderson to Michael Porro Re RFP for ADC, PLLC; Request for Proposal.pdf attached.		4504 07-14	N/A		
RX2459	4/29/2013	Email From M. Porro To J. Landey Damsey re: Henry Schein; Atlantic Dental Care Partnership Program-Revision.docx attachment		4504 07-14	N/A		
RX2460		Atlantic Dental Care Partnership Program - Revision		4504 07-14	N/A		

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RX2462	7/30/2013	Email from Brenton Mason to Frank Montoya, Jason Chapman, Brandon Bergman, Donna Nelson re Contact information for Dr. Mason and Dr. Chapman		4504 07-14	2399:06-2405:08 2407:20-2408:02		
RX2463	8/14/2013	Email from Brenton Mason to Brandon Bergman, cc Jason Chapman, Roderic Dolk, Donna Nelson, Dave Franco, Frank Montoya re Co-op meeting update		4504 07-14	2408:03-2409:02		
RX2464	11/18/2013	Email from B. Bergman to S. Rainwater (Pepper) (CC: D. Kyle) re: FW: Dental Cooperative of New Mexico / Supply Partnership		4504 07-14	N/A		
RX2466	6/18/2012	Email from Michael Porro to Jeff Reichardt re Seminar and Darby		4504 07-14	N/A		
RX2467	3/30/2015	Email from Bruce Hutchison to Michael Porro Re Schein		4504:07-14	N/A		
RX2468	2/17/2015	2015-2017 Terms of Agreement - Stark County Dental Society and Henry Schein Dental		4504 07-14	N/A		2018.10.30
RX2469	3/19/2014	Henry Schein / Orthosynthetics Dental Supply Agreement		4504:07-14	N/A		2018.10.30
RX2471	6/26/2017	Washington Association of Community and Migrant Health Centers Supply, Equipment and Repair Service Agreement		4504 07-14	N/A		2018.10.30
RX2472		Henry Schein Memo = BG/APC Discovery Questions - sample questionnaire		4504:07-14	N/A		
RX2475	6/23/2016	Stanley Bergman, Denal National Sales Meeting		4504:07-14	N/A		
RX2476	2017	2017 Schein Alternate Purchasing Channels Presentation		4504:07-14	N/A		
RX2477	2016	Connectteam 2016 National Sales Meeting		4504:07-14	N/A		
RX2478	5/12/2014	Email from Kathleen Titus to Randy Foley (CC Joe Cavaretta) re Joe Cavaretta being in Dallas		4504 07-14	N/A		
RX2479	3/1/2018	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2480	2/1/2018	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2481	3/1/2018	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2482	4/5/2016	Email from D. Foster to M. Harrison, Russ Baker, Courtney Robinson re Morrison Dental		4504 07-14	N/A		
RX2483	4/16/2015	Email from Kathleen Titus to Joe Cavaretta Re: Breakaway debrief		4504 07-14	N/A		
RX2484		Henry Schein, Rely On Us		4504 07-14	N/A		
RX2485	2013	Agreement Between Henry Schein Dental and Dental Co-Op UTAH - 2013		4504 07-14	N/A		
RX2486		Henry Schein Memo - Five Reasons Why Dentist Have Made Henry Schein the #1 Dental Company in America		4504 07-14	N/A		
RX2487	7/28/2010	Email from J. Cavaretta to J. Engel, B. Brown, J. Harmon re: Dental Co-Op Update		4504 07-14	N/A		
RX2488	5/1/2014	Henry Schein - The Mid-Market Strategy presentation		4504:07-14	N/A		
RX2490	11/21/2012	Email from J. Cavaretta to J. Salerno re: Nevada Co-op Q3 rebate for Dr. Wineman		4504 07-14	N/A		
RX2491	10/30/2012	Email from Ann Myers to Joe Caveretta re Co-Op VPA Change Approval Requested; Co-Op Performance Review - April 2008 xls attached; Co-Op Performance Review - April 2008.pdf attached.		4504 07-14	N/A		
RX2492	11/7/2011	Email From J. Cavaretta To B. Brady, J. Chatham re: Schein Discount for Hawaii Accounts		4504 07-14	N/A		
RX2494	12/1/2015	Email from Joe Cavaretta to Brian Brady, Jake Meadows re United Dental Group		4504 07-14	N/A		
RX2495	1/25/2016	Email from Joe Cavaretta to Kathleen Titus and Andrea Hight Re: large customers		4504 07-14	N/A		
RX2496	6/17/2014	Email from K. Rowland to R. McLemore re: Steadfast Medical Transition Update with attachment		4504 07-14	N/A		
RX2497	5/10/2012	Email from T. Sullivan to Scott Anderson re: May DTA Update		4504 07-14	N/A		
RX2498	11/25/2013	Email from T. Sullivan to M. Augins, S. Anderson re: Attached Image		4504 07-14	N/A		
RX2499	1/2/2015	Email From C. Gimpel To S. Kazanecki (CC S. Mobini, B. Harrison, A. Martino, R. Foley) re: December 2014 Sales Numbers (DecemberPayout2014.xlsx attached)		4504 07-14	N/A		
RX2500	12/1/2014	December 2014 rebate payout summary		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2501	12/1/2016	Email from Joe Cavaretta to Brian Brady, Darci Wingard re Breakaway commissions		4504 07-14	N/A		
RX2502	1/1/2011	Letter detailing specifics of Henry Schein Dental program with Advantage Dental members		4504 07-14	N/A		
RX2503	12/17/2015	Service Agreement for Tralongo LLC		4504 07-14	N/A		2018.10.30
RX2504	5/15/2014	Infinity Dental and Henry Schein Dental Supply Agreement		4504:07-14	N/A	RXD0001	2018.10.30
RX2505	3/3/2016	Email from Scott Graverson to Andrea Hight, Brian Brady, Debbie Foster, Samantha Glucksman, Zachary Harrison, Amanda Holtzman, Kathleen Titus, Jason Krause, Nicole Lena, Patricia Vega, Matt Woodend, Andy Polk, Keith Gauzza, cc Ryan Finnegan re E & I marketing piece to dental schools		4504 07-14	N/A		
RX2506	5/17/2016	Email From M. Sirney to B. Brady re: Two buying groups / check TOV reporting		4504 07-14	N/A		
RX2507	4/4/2016	Email From D. Panaro To J. Meadows, J. Chatham re: No Va Buying Group		4504:07-14	N/A		
RX2510	1/18/2015	Email from Jeff Reichardt to Jake Meadows re [ACEsthetics] Important! Please remove me immediately from the ACE forum		4504 07-14	N/A		
RX2511	12/18/2012	Email from Blaine Brown to Jake Meadows re Proposed Agreement Between Henry Schein Dental and Dental Co-op Utah 2013; Proposed Co-op HSD Agreement for Vegas and Dental Co-Op for 2013.pdf attached.		4504 07-14	N/A		
RX2513	6/25/2010	Response to Request for Proposal for Nationwide Children's Hospital Provided By Henry Schein		4504 07-14	N/A		
RX2514	11/16/2015	Email from M. Sirney to K. Gantos re: Feedback; Mark S. 2015 Performance Feedback docx		4504 07-14	N/A		
RX2515	11/16/2015	Mark Sirney employee survey		4504 07-14	N/A		
RX2516	7/3/2012	Email from M. DeMonaco to M. Sirney re: Fwd: Corydon Palmer Small Equip Quote		4504 07-14	N/A		
RX2517	2013	2013-2014 Terms of Agreement Stark County Dental Society and Henry Schein Dental		4504 07-14	N/A		
RX2518	10/5/2012	Email from Tom Fierro to Chuck Jenkins, Michael Minor, Michele Filiault, Paul Geiser, Robert Stevens, Stephan Miles, Marc Capots, Scott Graverson, Jules Paoletti, Don Hobbs, and Brian Watson (CC Randy Foley, Debbie Torgersen-Foster, and Kathleen Titus) re SM update meeting minutes		4504 07-14	N/A		
RX2519		Henry Schein Memo - Custom Quote VS Custom Quote Plus		4504 07-14	N/A		
RX2520	7/7/2014	Email From K. Titus To J. Cavaretta re: Our meeting today		4504:07-14	N/A		
RX2521	11/26/2013	Email from Paul Hinsch to John Chatham, Joe Cavaretta, Brian Watson, cc Tim Sullivan re VPA's and Order Level Offers		4504 07-14	N/A		
RX2522	00/00/2013	DSL Plans 2013 and Volume Purchase Agreement Chart - Westchester Dental		4504 07-14	N/A		
RX2523	4/12/2016	Klearimpakt Buring Group "About" page listing HSD contacts K. Titus & J. Sala		4504 07-14	N/A		
RX2524	8/19/2015	Email from Brian Brady to Tim Sullivan re watchdog report		4504:07-14	N/A		
RX2525	11/13/2009	Dental Co-op and Henry Schein Dental Agreement		4504:07-14	N/A		
RX2527	8/7/2015	Service Agreement for Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP)		4504 07-14	N/A		2018.10.30
RX2528	4/15/2014	Email from Randy Foley to Rhonda Durante RE: Financial Statements for Tralongo Management		4504 07-14	N/A		
RX2529	8/31/2010	Email From R. Foley To H. Muller re: Smile Source		4504:07-14	N/A		
RX2530	10/1/2011	Service Agreement for Tralongo Management/Imagix		4504 07-14	N/A		
RX2531	4/4/2012	Email from Ron Smith to Randy Foley re new key accounts		4504:07-14	N/A		
RX2532	5/8/2012	Email from Debbie Torgersen-Foster to Randy Foley re Q1 movement between SM/HSD		4504 07-14	N/A		
RX2533	5/8/2009	Dental Partners of Georgia Service Agreement		4504 07-14	N/A		
RX2534	9/10/2012	Intermountain Dental Associates Request for Proposal		4504:07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2535	2/16/2010	Henry Schein / Intermountain Dental Associates Dental Supply Agreement		4504 07-14	N/A		
RX2536	9/28/2012	Email from Andrea Hight to Richard Erwin, Melanie Bingham, Jeff Harmon, Randall Kofron, and Randy Foley Re: Bid Submission Documents		4504 07-14	N/A		
RX2537	9/27/2012	Henry Schein Special Markets Response to Intermountain Dental Association's RFP		4504 07-14	N/A		
RX2538	2/27/2012	Glove Savings Example spreadsheet		4504:07-14	N/A		
RX2539	9/24/2012	Intermountain Dental Hist Jul11-Jun12 Sales spreadsheet		4504:07-14	N/A		
RX2540	7/31/2012	Bid Submission IDA - Supplies and Equipment spreadsheet		4504:07-14	N/A		
RX2541	1/1/2013	Henry Schein Dental Markets - Dental Supply Agreement Between Henry Schein, Inc. and Intermountain Dental associates		4504 07-14	N/A		
RX2542	1/1/2013	Henry Schein, Inc/Dental Association of Huntington Beach Supply Agreement		4504 07-14	N/A		
RX2543	9/4/2012	Henry Schein & Dental Partners of Georgia Supply Agreement		4504 07-14	4611:19-4619:12		
RX2544	4/2/2010	Email from Debbier Torgersen to Lindy Goodman, Linn Flood, Ron Smith, and Karoline Heytens (CC Denise Ryan, Jason Colliver, Elizabeth Carlucci, and Randy Foley) re Dental Associates of VA		4504 07-14	N/A		
RX2545		Advantage Dental Clinics Office Listings		4504:07-14	N/A		
RX2547	4/1/2009	Service Agreement for Smile Source		4504 07-14	N/A		
RX2548	8/20/2012	Management Report - Special Markets - Southeast Region		4504:07-14	N/A		
RX2549	2/8/2012	Text from C. Cohen to T. Sullivan re: "Did you warm up the Dentsply crowd for me & Paul? Im nervous about following you, its like following Elvis on stage! :-)"		4504 07-14	N/A		
RX2550	2/8/2012	Text from T. Sullivan to C. Cohen re: "Just wrapped up. They boo'd me off the stage. Threw fruit. Ornerly crowd. I'm sure you'll do great!"		4504 07-14	N/A		
RX2551	2/8/2012	Text from C. Cohen to T. Sullivan re: "Sure that's not true. You killed! Thanks for the heads up. I'm going back to Wilkes-Barre!"		4504 07-14	N/A		
RX2552	2/16/2012	Text from C. Cohen to T. Sullivan re: "Fired Ann Cox? Ethics?"		4504 07-14	N/A		
RX2553	2/20/2012	Text from T. Sullivan to C. Cohen re: Hiring Anne?		4504:07-14	N/A		
RX2554	3/14/2012	Text from C. Cohen to T. Sullivan re: "Tim. Just heard that Steve Hoyt is your manager in CT. If you're interested in why he no longer has that role with Benco, happy to discuss. If not, that's OK too. Thanks."		4504 07-14	N/A		
RX2555	7/2/2013	Text from C. Cohen to T. Sullivan re: "Tim: Sales rep forced to resign yesterday b/c of ethical issues, caught him with his hand in the cookie jar... Heard he's going to you guys, happy to fill you in on the details if you'd like. Just give me a call. Thanks."		4504 07-14	N/A		
RX2556	8/1/2013	Text from C. Cohen to T. Sullivan re: "Ha! Larry sang everyone at Benco a song today in celebration. I'll send you a copy. Funny!"		4504 07-14	N/A		
RX2557	3/18/2014	Text from T. Sullivan to C. Cohen re: "I've got Badgers in March. You?"		4504:07-14	N/A		
RX2558	3/18/2014	Text from C. Cohen to T. Sullivan re: "Good pick, #2 seed. They'll have to get past Creighton & McDermott, will be tough."		4504 07-14	N/A		
RX2559	3/18/2014	Text from C. Cohen to T. Sullivan re: "Excited to see Ivy (Harvard) as 12 seed this year. Might go to round 2!"		4504 07-14	N/A		
RX2560	3/18/2014	Text from T. Sullivan to C. Cohen re: "So you're not declaring? Where did you go to college?"		4504 07-14	N/A		
RX2561	3/18/2014	Text from C. Cohen to T. Sullivan re: "Penn. Our basketball program has been a shambles the last few years. Depressing. This time of year we're all Harvard fans."		4504 07-14	N/A		
RX2562	3/18/2014	Text from C. Cohen to T. Sullivan re: "I'm going with FL all the way, too tough I think."		4504 07-14	N/A		
RX2563	3/18/2014	Text from T. Sullivan to C. Cohen re: "Ok. I've got Badgers. You've got Harvard. For a beer."		4504 07-14	N/A		

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RX2564	3/18/2014	Text from C. Cohen to T. Sullivan re: "Count me in, I'll take that bet, I'm a man with more pride than brains."		4504 07-14	N/A		
RX2565	5/21/2014	Text from T. Sullivan to C. Cohen re: "Good discussion on your family foundation. Let me know if you want to discuss further on how we manage ours. :)"		4504 07-14	N/A		
RX2566	11/24/2013	Text from T. Sullivan to S. Anderson re: "I consider that a Viking win."		4504:07-14	N/A		
RX2567	1/6/2014	Text from T. Sullivan to S. Anderson re: "8-7-1 and we win out pathetic division. Scary. At least we know we will be back next year. How 'bout y'all?"		4504 07-14	N/A		
RX2568	1/6/2014	Text from T. Sullivan to S. Anderson re: "Ahhhh. Yes. Congrats on 1980's. Good years for ya. Anything since? Finish this year out and then I'll eat this text."		4504 07-14	N/A		
RX2569	1/6/2014	Text from S. Anderson to T. Sullivan re: "When win 5 Super Bowls call me! World champs don't count!"		4504 07-14	N/A		
RX2570	1/6/2014	Text from T. Sullivan to S. Anderson re: "One behind on SBs and 9 ahead on world championships."		4504 07-14	N/A		
RX2571	3/14/2014	Text from S. Anderson to T. Sullivan re: "Go Vikes...Manziel Mania!"		4504 07-14	N/A		
RX2572	4/3/2014	Text from T. Sullivan to S. Anderson re: "Congrats. Good for Big Ten. Now it's badgers turn. :)"		4504 07-14	N/A		
RX2573	4/3/2014	Text from S. Anderson to T. Sullivan re: "Going to final four with Kari... we will cheer on the badgers, I like Bo!"		4504 07-14	N/A		
RX2574	4/6/2014	Text from S. Anderson to T. Sullivan re: "Dude...great game, Badger nation was awesome. Am now a Uconn fan!"		4504 07-14	N/A		
RX2575	4/6/2014	Text from T. Sullivan to S. Anderson re: "Was that awesome or what?! Bad ending, but great game. One of my sons is HUGE Uconn fan. Had them winning his bracket."		4504 07-14	N/A		
RX2576	4/6/2014	Text from T. Sullivan to S. Anderson re: "Wow. Those your seats?!?"		4504 07-14	N/A		
RX2577	4/6/2014	Text from S. Anderson to T. Sullivan re: "Going to game Monday... I am the new Perry!"		4504 07-14	N/A		
RX2578	4/6/2014	Text from T. Sullivan to S. Anderson re: "Had Bucky won I'd be staying too. Go UConn!"		4504 07-14	N/A		
RX2579	6/29/2014	Text from T. Sullivan to S. Anderson re: "Weekend lacrosse tourney here at st. Thomas academy. Just noticed today the neighbor. Nice building. :)"		4504 07-14	N/A		
RX2580	10/3/2014	Text from S. Anderson to T. Sullivan re: "Beat so bad no shit from Packer nation..."		4504 07-14	N/A		
RX2581	10/3/2014	Text from S. Anderson to T. Sullivan re: "Gophers on fire... Bucky nervous."		4504 07-14	N/A		
RX2582	10/25/2014	Text from T. Sullivan to S. Anderson re: "What's worse. Wi loss to Northwestern or MN loss to IL? Big Ten not so pretty this year."		4504 07-14	N/A		
RX2583	10/27/2014	Text from T. Sullivan to S. Anderson re: "Just heard about Andre today. Sorry for your loss. I heard only good things about him, but never had opportunity to meet him."		4504 07-14	N/A		
RX2584	11/30/2015	Text from T. Sullivan to S. Anderson re: "I thought you graduated in 1962? Was it 1862?"		4504 07-14	N/A		
RX2585	10/5/2011	Text from C. Cohen to +1 414-975-8377 re: "Must be very bright & hard working. He needs to be working for Benco, does he have a contract? Can I give him a signing bonus? :)"		4504 07-14	N/A		
RX2586	10/5/2011	Text from C. Cohen to +1 414-975-8377 re: "If it's a Brewers-Yankees series, we better be going to a game. I'll come to WI, or you come to NY. We can bring stan too."		4504 07-14	N/A		
RX2587	10/5/2011	Text from +1 414-975-8377 to C. Cohen re: "I think Bill Rotert has already signed him too."		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2588	10/10/2011	Text from C. Cohen to +1 414-975-8377 re: "BTW, I love the way that the Sullivan Foundation/DTAF joint scholarship program has turned out. Well done. I'm going to talk to my dad about doing some"		4504 07-14	N/A		
RX2589	10/10/2011	Text from +1 414-975-8377 to C. Cohen re: "That's great. We contemplated making it a matching fun somehow to get other Dental Families in the game, but it got complicated. Happy to see it having the effect anyway. :)"		4504 07-14	N/A		
RX2590	10/14/2011	Text from +1 414-975-8377 to C. Cohen re: "Awesome. I just read to my mom an we had a great smile n hug. :)"		4504 07-14	N/A		
RX2591	6/13/2012	Text from +1 414-975-8377 to C. Cohen re: "Creative annual report this year!! Nice job and congrats on successful year. Too many former Team Schein Members included though. :)"		4504 07-14	N/A		
RX2592	9/25/2014	Text from +1 414-975-8377 to C. Cohen re: "John Cox says hello."		4504 07-14	N/A		
RX2593	9/16/2014	Email from R. Steck to T. Neil, M. Porro (CC R. Steck) re: FW: Universal Dental Alliance Member Supply Agreement; Universal Dental Alliance Member supply agreement 6-23-14 blk.docx attached		4504 07-14	N/A		
RX2594	9/15/2014	Email from Jeff Harmon to Joe Cavaretta Re Dental coop letter		4504 07-14	N/A		
RX2595	6/26/2015	Email from Kathleen Titus to Joe Cavaretta re Thank you for a great meeting!		4504 07-14	N/A		
RX2596	7/1/2015	Email from Timothy Ingoglia to Kathleen Titus, cc Joe Cavaretta re NDA for a prospective partners - Dentistry Unchained; Mutual Confidentiality Agreement between Henry Schein, Inc. and Dentistry Unchained/Big Buzz attached		4504 07-14	N/A		
RX2597	9/23/2015	Email from Kathleen Titus to David Bennett, Wendy Phillips, cc Joe Cavaretta re Unchained Dentristry (sic) NDA		4504 07-14	N/A		
RX2598	10/12/2015	Email from Kathleen Titus to Joe Cavaretta re Unchained Dentristry (sic) NDA		4504 07-14	N/A		
RX2599	6/2/2010	Email from Joe Cavaretta to B. Brown, J. Harmon, J. Engel re: Dental Co-Op/Schein		4504 07-14	N/A		
RX2600	8/28/2014	Letter from Dental Cooperative COO A. Eberhardt alerting employees that Dental Cooperative is no longer participating in a purchasing program through HSD.		4504 07-14	N/A		
RX2601	9/15/2014	Email From J. Cavaretta To J. Harmon (CC K. Upchurch) re: Dental Cooperation Letter		4504 07-14	N/A		
RX2602	10/28/2014	Email from J. Chatham to Q. Ahmed, T. Sullivan (CC J. Kois, B. Chagger) re: Follup-Up Call: Equalizer Program		4504 07-14	258:20-267:14	RXD0001	
RX2603	2/15/2016	Email from Dave Steck to Tim Sullivan (CC Linda Gulgowski and Wendy Rouse) re CDA / TDSC presentation		4504 07-14	N/A		
RX2604	9/15/2014	Email from Joe Cavaretta to Jeff Harmon Re Dental coop letter; Schein letter 8-27-14.pdf attached.		4504 07-14	N/A		
RX2606	1/9/2017	Email from Joe Cavaretta to Wendy Phillips, Kathleen Titus, cc David Bennett re CONFIDENTIAL: Acquisition Opportunity		4504 07-14	N/A		
RX2608	4/11/2016	Email from Glenn Showgren to Evet Dickinson re Bullet Points for Today's Call		4504 07-14	N/A		
RX2609	11/7/2015	Email From H. Muller To J. Meadows (CC R. Foley, B. Harrison) re: ADC in VA		4504 07-14	N/A		
RX2610	5/13/2016	Email from Robin Reich to Jake Meadows Re: Talk		4504:07-14	N/A		
RX2611	2/3/2013	Email from Tom Fierro to Chuck Jenkins, Michael Minor, Michele Filiault, Paul Geiser, Robert Stevens, Stephan Miles, Marc Capots, Scott Graverson, Jules Paoletti, Don Hobbs, Brian Watson, Kathleen Titus, Dave Luckenbaugh, and Randall Kofron (CC Randy Foley, Rhonda Durante, and Andrea Hight) re SM update meeting minutes		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2612	4/30/2015	Email From H. Ferrari-Nguyen To A. Haq, R. Steck, C. Paviglianiti, B. Johel (CC K. Heytens) re: Universal Dental Alliance Q1-15 rebate (UDA-Q1-15.xlsx attached)		4504 07-14	3771:09-3774:21		
RX2613	4/30/2015	Universal Dental Alliance Q1-15 rebate Excel sheet		4504 07-14	N/A		
RX2614	6/28/2013	Email From J. Breslawski To H. Muller (CC E. Rosenbaum) re: Pressure		4504 07-14	N/A		
RX2615	12/12/2012	Email from T. Sullivan to S. Bergman, J. Breslawski (CC. T. Hoff, L. McHugh) re: Helen Gorman/details		4504 07-14	N/A		
RX2616	6/11/2013	Email from T. Sullivan to J. Breslawski, M. Mlotek, S. Bergman re: FW: Joan Austin Memorial Service		4504 07-14	N/A		
RX2617	3/9/2015	Email from Brian Brady to Tim Sullivan regarding MM Update; One Schein Strategy PowerPoint and Henry's Club Packages pdfs attached		4504 07-14	4120:25-4123:16		
RX2618	10/29/2013	Email From J. Chatham To T. Sullivan (CC D. Steck) re: Checking-in on Smile Source		4504 07-14	N/A		
RX2619	2/9/2012	Email from Todd Nickerson to Tim Sullivan (CC John Chatham, Kevin Burniston, Andrew Goldsmith) re Smile Source		4504 07-14	2106:15-2109:21 4157 02-06 4157:09-4158:25	RXD0027	
RX2620	8/31/2017	Email string from Hal Muller to Bill Harrison re Acurity agreement		4504 07-14	N/A		
RX2621	3/29/2016	Email From K. Titus To richard@klearimpakt.com, rkjrich@yahoo.com re: KI tracking and relaunch (KLE-sales YTD030416.xlsx; HIS-fiscalquarter2016.xlsx;KLE-Q4-15rebate.xlsx attached)		4504 07-14	N/A		
RX2622	3/4/2016	Klearimpakt - KLE01 Merchandise Sales - YTD 3/4/16		4504:07-14	N/A		2018.10.30
RX2623		3x4 Table w/ columns labeled Period, Start Date & End Date; rows labeled Q1-16, Q2-16, Q3-16 & Q4-16		4504 07-14	N/A		
RX2624	12/2015	Table with Columns Labeled Parent, Parent Practice Name, Bill-To, Ship To, Practice Name, Location, Enrollment Date, Net Sales for Oct 2015 - Dec 2015 & Net Sales Total		4504 07-14	N/A		
RX2625	10/7/2015	Email from Kathleen Titus to Wendy Phillips, cc Joe Cavaretta re Moving the ball down the field... Member discovery and discussion		4504 07-14	N/A		
RX2627	4/1/2018	2018 FSC Compensation Plan		4504 07-14	N/A		2018.10.30
RX2628	1/15/2017	Kavo/Kerr Signature Plus 2017 Rebate Program (Breakaway Practice)		4504 07-14	N/A		2018.10.30
RX2629	5/20/2017	Email from J. Meadows to B. Brady re: admin fee for Long Island Dental		4504 07-14	N/A		
RX2630	1/22/2015	Email from K. Titus to J. Cavaretta, B. Brady re: FW: Klearimpakt and Henry Schein exploring a partnership		4504 07-14	2983:11-2985:14		
RX2631	1/30/2015	Email From K. Titus To H. Muller (CC B. Brady) re: Legacy		4504 07-14	N/A		
RX2632	4/2/2014	Email from D. Luckenbaugh to C. Jenkins re: breakaway dental practices		4504 07-14	N/A		
RX2633	1/26/2015	Email From R. Foley To H. Muller (CC B. Harrison, B. Ryan, P. Berkley, V. Taylor, B. Peterson) re: Dental Gator		4504 07-14	N/A		
RX2634	9/5/2017	Email from G. Khoury to D. Wingard re: Kois		4504:07-14	N/A		
RX2635	6/20/2017	Email string from Monica Stenslie to Nick Barenz, Kay Millard, Alex Momich, cc Andrew Langer, Marcy Nightingale, Darci Wingard, Marianne Alba, Denise Fiorletta re Charitable Donation for Dentists for A Better Huntington		4504 07-14	N/A		
RX2636	10/31/2016	Email from Debbie Foster to Andrea Hight (CC Darci Wingard) re Dental Sense		4504 07-14	N/A		
RX2637	10/9/2017	Email from Darci Wingard to Alan Withall, Arthur Martin, Scott Graversen, Dave Luckenbaugh and Zachary Harrison Re: New Breakaway Support Member, Dr. Michael Nguyen, JDE# 3111764		4504 07-14	N/A		
RX2638	9/20/2017	Email from Darci Wingard to Dave Jacklin, cc Robert Gunson, Matt Woodend re Advantage Dental Provider		4504 07-14	N/A		
RX2639		Customer Benefits Statement for Advantage Dental Members		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2640	8/1/2017	Email from Darci Wingard to Gary Rzepka and Sheena Hurtig RE: Question about Synergy Buying Group		4504 07-14	N/A		
RX2641	9/20/2017	The Schein Identity ConnectTeam 2017 DNSM - Alternate Purchasing Channels Presentation (Brad Fine, Mike Herrin, Matt Woodend & Darci Wingard)		4504 07-14	N/A		
RX2644	12/16/2015	Henry Schein Service Agreement for Tralongo LLC		4504 07-14	N/A		2018.10.30
RX2645	8/29/2017	Email from Darci Wingard to Bridget Dorsey and Ted Vlamis Re: Breakaway Question - Social Media Champions		4504 07-14	N/A		
RX2646	8/29/2017	Breakaway Alliance Profile		4504 07-14	N/A		
RX2647	8/29/2017	Breakaway Practice Dental Support Program		4504 07-14	N/A		
RX2648	10/22/2014	Email from Jeff Chatham to Bridget Dorsey and John Chatham RE: PEAK group doing group buying starting June 1st		4504 07-14	N/A		
RX2649	9/15/2014	Email From A. Hight To R. Foley re: Advantage Dental FSC Assignment		4504 07-14	N/A		
RX2650	10/6/2014	Email From J. Cavaretta To T. Sullivan (CC S. Kess, H. Muller, J. Chatham, D. Steck, W. Rouse; C. Peterson) re: CDA Follow Up		4504 07-14	N/A		
RX2651	7/9/2013	Henry Schein, Inc. / Coastal Dental Services, Inc. Prime Dental Supplier Distributor Agreement		4504 07-14	N/A	RXD0001	
RX2652	6/1/2016	Heartland Dental Request for Proposal Dental Supplies and Equipment (exhibit 3: purchase agreement)		4504 07-14	N/A		
RX2653	1/1/2013	Dental Supply Agreement Between Henry Schein, Inc. and Intermountain Dental Associates		4504 07-14	N/A		
RX2655	7/1/2014	Henry Schein Inc. / ImmediaDent Prime Dental Supplier Agreement		4504 07-14	N/A		2018.10.30
RX2656	9/1/2017	Orthosynetics Dental Supply and Henry Schein Prime Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2657	3/7/2014	Pacific Dental Services and Henry Schein Prime Dental Supplier Agreement		4504 07-14	N/A		2018.10.30
RX2658	8/1/2011	Henry Schein, Inc / Advantage Dental Supply and Dentrix Enterprise Conversion Agreement		4504 07-14	N/A		
RX2659	8/1/2014	Henry Schein, Inc / Advantage Dental Supply and Dentrix Enterprise Upgrade Agreement		4504 07-14	N/A		2018.10.30
RX2660	4/20/2015	Email from Kathleen Titus to Joe Cavaretta Re: Breakaway Contact Info - Thank you, Breakaway Practice Team!		4504 07-14	N/A		
RX2661	5/29/2015	Email From dustin@britewaydental.com To H. Muller (CC B. Harrison, K. Titus, N. Lena) re: PVA Revised Auditions; Schein PVA_BWD_Final_5-29-15-2.pdf attachment		4504 07-14	N/A		
RX2662	4/20/2015	Briteway Dental & Henry Schein, Inc. Dental Prime Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2663	9/2/2014	Email from Steve Kess to Hal Muller, Stanley Bergman, Jim Breslawski re Dental Management Services Company		4504 07-14	N/A		
RX2664	5/18/2011	Email from J. Cavaretta to A. Dastmalchi, P. Toh (CC B. Brady) re: Introduction from Henry Schein		4504 07-14	N/A		
RX2665	11/3/2011	Email from S. Dutson to J. Salerno (CC: Joe Cavaretta) re: FW: Dental Co-Op Purchasing Contract / Meeting; Schein-Co-Op Nevada Agreement.doc attached		4504 07-14	N/A		
RX2666	1/18/2012	Email from S. Dutson to J. Cavaretta re: Dental Co-op Contract to be used for Merit Dent; Schein-Co-Op Nevada Agreement.doc attached		4504 07-14	N/A		
RX2667	7/15/2015	Email From J. Cavaretta To K. Titus re: Our meeting today - PGMS Agreement for your review.		4504 07-14	N/A		
RX2668	4/12/2017	Email from D. Wingard to N. Barenz, S. Roberts, and K. Heytens re: Advantage Dental Group Rebate with Total 2010 Adv Dental Rebate attached		4504 07-14	N/A		
RX2669	3/13/2017	Email From N. Barenz To B. Brady, D. Wingard re: Monthly APC Snapshot - February 2017 (Monthly APC Snapshot 2-17 NB.xlsx attached)		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2670	2/1/2017	Monthly Alternative Purchasing Channels Snapshot - Feb 2017 Excel Spreadsheet		4504 07-14	N/A		2018.10.30
RX2671	12/1/2016	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2672	11/1/2016	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2673	1/27/2014	Henry Schein: Doing Well by Doing Good?		4504:07-14	N/A		
RX2674	1/12/2012	Email from J. Meadows to S. Aaron re: Smile Source		4504:07-14	N/A		
RX2675	2017	Primary Vendor Agreement By and Between Henry Schein, Inc. and Texas Association of Community Health Centers, Inc.		4504 07-14	N/A		2018.10.30
RX2676	6/1/2017	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		
RX2677	11/7/2017	Hal Muller comments on list of buying groups		4504:07-14	N/A		
RX2678	2/1/2018	Email from Mukhdoom Bulkhat to Bill Harrison, Deborah Johnson, Pam Reece, Alan Gershowitz, Jake Meadows re Mt. Sinai and Henry Schein Agreement		4504 07-14	N/A		
RX2679	3/19/2015	Email From B. Ryan To A. Holtzman re: Quatrius Letter		4504:07-14	N/A		
RX2680	9/1/2017	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2681	8/25/2017	Letter from B. Brady to Trevor Maurer (Smile Source) with Prime Vendor Agreement attached		4504 07-14	N/A		2018.10.30
RX2682	9/1/2017	Henry Schein, Inc. & Mastermind Group Primary Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2683	3/13/2017	2017 - 2019 Terms of Agreement Corydon Palmer Dental Society & Henry Schein Dental		4504 07-14	N/A		2018.10.30
RX2684	5/15/2017	Teeth Tomorrow and Henry Schein Prime Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2685	11/1/2017	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2686	12/28/2017	Email from C. Ruben to D. Wingard (CC J. McCloskey) re: APC Members-Low Performing Accounts; Buying Group Report 2014 to 2017 YTD attachment		4504 07-14	N/A		
RX2687		Buying Group Summary spreadsheet listing sales performance		4504 07-14	N/A		2018.10.30
RX2688	11/4/2016	Email from Andre Hight to Anneke Ahrendt and Darci Wingard Re: Draft PVAs for Breakaway		4504 07-14	N/A		
RX2689	11/3/2016	Breakaway Business Models Entity Code BAGRP		4504 07-14	N/A		
RX2691	2017	Sales Rebate Calc Q1		4504 07-14	N/A		
RX2692	2017	Q1 Admin Fee Calculations Spreadsheet		4504:07-14	N/A		2018.10.30
RX2693	2017	Q2 Admin Fee Calculations Spreadsheet		4504:07-14	N/A		2018.10.30
RX2694	2017	Q3 Admin Fee Calculations Spreadsheet		4504:07-14	N/A		2018.10.30
RX2695	8/1/2017	Dental Success Institute and Henry Schein Prime Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2696	8/1/2017	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2697	3/13/2017	Corydon Palmer and Henry Schein Terms of Agreement		4504 07-14	N/A		2018.10.30
RX2698	1/1/2017	Primary Vendor Agreement Buying Group By and Between Henry Schein, Inc. and Stark County Dental Society		4504 07-14	N/A		2018.10.30
RX2699	1/1/2017	Dentists for a Better Huntington and Henry Schein Prime Vendor Agreement		4504 07-14	N/A		2018.10.30
RX2701	9/29/2016	Email from Anneke Ahrendt to Helen Ferrari-Nguyen, Nick Barenz, cc Darci Wingard, Dannielle Cartwright re MediSpend Set Up - reporting of admin fees - The Huntington Group		4504 07-14	N/A		
RX2702	3/23/2016	Email from Jim Breslawski to Dave Steck, cc Tim Sullivan re CDA/TDSC Update - Privileged		4504 07-14	N/A		
RX2703	8/11/2015	Email from Wendy Phillips to David Bennett, Joe Cavaretta re Revised LOI		4504:07-14	N/A		
RX2704	2015	Advantage Dental Clinics Annual Review (Q4 2014-Q3 2015)		4504:07-14	N/A		
RX2705	6/18/2010	Council Connections and Henry Schein Amendment to Group Purchasing Agreement		4504 07-14	N/A		
RX2706	12/1/2009	Texas Association of Community Health Centers Agreement		4504:07-14	N/A		
RX2707	12/1/2003	Service Agreement for Texas Association of Community Health Centers		4504 07-14	N/A		
RX2708	11/6/2009	Email From A. Hight To R. Foley re: TACHC Agreement Update on Phone Call with TACHC		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2709	6/1/2011	Intermountain Dental Associates and Henry Schein Focus Incentive Program (FIP) Agreement		4504 07-14	N/A		
RX2710	5/1/2011	Primary Vendor Agreement between Illinois Primary Healthcare Association & Henry Schein Medical		4504 07-14	N/A		
RX2711	5/17/2010	Henry Schein, Inc. / Comfort Dental Inc. Dental Supply Agreement Quick Financial Overview		4504 07-14	N/A		
RX2712	6/9/2010	Email from Hal Muller to Comfort Dental, Randy Foley, JoAnn Levandowski and Chuck Jenkins Re: Welcome!		4504 07-14	N/A		
RX2713	8/31/2010	Email from H. Muller to M. Finnan, R. Foley, T. Sullivan, D. Steck, J. Reichardt re: Smile Source		4504 07-14	N/A		
RX2714	1/14/2011	Email from Rick Heysquierdo to Dave Steck, John Chatham, Randal Foley, Jim Philhower, Anna Struckhart, and CC Tim Sullivan re Smile Source		4504 07-14	2110:21-2114:03 3775:18-3778:25		
RX2715	7/22/2014	Email from S. Graverson to R. Foley re: Advantage Dental PVA update; S60BW-111080111300.pdf attached; ADVTG - Annual Review - Q2 2014.pptx attached		4504 07-14	N/A		
RX2716	2014	Advantage Dental Clinics Annual Review (Q3 2013 - Q2 2014)		4504:07-14	N/A		
RX2717	2/9/2016	Email from Glenn Showgren to Dave Steck, Joe Cavaretta re TDSC Update		4504 07-14	N/A		
RX2718	5/9/2014	Email from K. Titus to P. Berkey, R. Foley and C. Rogers re: Breakaway Dental - Urgently seeking info on the corporate relationship		4504 07-14	5265:13-5268:12	RXD0001	
RX2719	9/2/2010	Email from T. Sullivan to P. Hinsch, S. Bergman, J. Breslawski, M. Mlotek, D. Steck, J. Chatham re: FW: DTA Grey Market Task Force; DTA Grey Market CMWAgenda.ppt attached		4504 07-14	N/A		
RX2720	7/14/2014	Email from Brian Brady to Kathleen Titus, cc Joe Cavaretta, Glenn Showgren, Nicole Lena re Our meeting today - PGMS Agreement for your review		4504 07-14	N/A		
RX2721	11/1/2017	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2722	12/1/2017	Monthly Alternative Purchasing Channels Snapshot		4504:07-14	N/A		2018.10.30
RX2724	7/1/2010	E&I and Henry Schein Master Agreement		4504 07-14	N/A		2018.10.30
RX2725	7/13/2016	Email from John Bellerio to Hal Muller re E&I		4504:07-14	N/A		
RX2726	7/19/2012	Email string from Dave Luckenbaugh to Russ Baker, Elmo Landon, Bryan Allem, Jamison Leigh, cc Debbie Torgersen-Foster, Jules Paoletti, Chuck Jenkins, Tim Jones re Dental Smart - Revised Equipment Proposal		4504 07-14	N/A		
RX2727	7/19/2012	Henry Schein Special Markets Equipment and Technology Group invoice to Dental Smart		4504 07-14	N/A		
RX2728	10/31/2016	Email string from Alex Koulouris to Andrea Hight, cc Randall McLemore re Dental Sense		4504 07-14	N/A		
RX2729		DSM Customers with DSL Centers spreadsheet listing customer information and sales		4504 07-14	N/A		
RX2730		Sales Plan Enrollment List LG		4504 07-14	N/A		2018.10.30
RX2731	10/20/2011	Email From P. Hinsch To T. Sullivan re: UDA		4504:07-14	N/A		
RX2732	4/11/2017	Email From N. Barenz To B. Brady re: Alternate Purchasing Channel Admin Fee Calculations (BG Admin Fee Tracker attached)		4504 07-14	N/A		
RX2733		Rebate Master & Additional Notes Excel Spreadsheets		4504:07-14	N/A		
RX2734	2/6/2017	Email From N. Barenz To B. Brady, D. Wingard re: Amended January APC Snapshot / KlearImpakt January Snapshot (Monthly APC Snapshot 1-17 NB.xlsx; KlearImpakt Snapshot 1-17 NB.xlsx attached)		4504 07-14	N/A		
RX2735	1/1/2017	Monthly Alternative Purchasing Channels Snapshot - Jan 2017 Excel Spreadsheet		4504 07-14	N/A		2018.10.30
RX2736	2/1/2018	Acurity and Henry Schein Custom Group Purchasing Agreement		4504:07-14	N/A		2018.10.30
RX2737	6/10/2015	Quatrius and Henry Schein Prime Managed Group Dental Supplier Distributor Agreement		4504 07-14	N/A		2018.10.30
RX2738		Alpha Omega/Schein Program Talking Points		4504:07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2739		Henry Schein - Columbia University Medical Center Business solutions and exceptional value added services In Partnership		4504 07-14	N/A		
RX2740		Columbia Customer Updates Spreadsheet		4504:07-14	N/A		
RX2741		Henry Schein - Columbia University Medical Center PVA Proposal		4504:07-14	N/A		
RX2742	9/8/2017	Email From B. Brady To J. Meadows, J. Cavaretta re: Monthly APC Snapshot_08-2017 DV.xlsx (Monthly APC Snapshot_08-2017 DV.xlsx;ATT00001.htm attached)		4504 07-14	N/A		
RX2743	8/1/2017	Monthly Alternative Purchasing Channels Snapshot - Aug 2017 Excel Spreadsheet		4504 07-14	N/A		
RX2744	11/29/2016	Email From N. Barenz To B. Brady, J. McGarry, D. Wingard re: Monthly APC Snapshot Nov 2016 (Monthly APC Snapshot 11-16 NB.xlsx; Klearimpakt Snapshot 11-16 NB.xlsx attached)		4504 07-14	N/A		
RX2745	11/1/2016	Monthly Alternative Purchasing Channels Snapshot - Nov 2016 Excel Spreadsheet		4504 07-14	N/A		2018.10.30
RX2746		Monthly Klearimpakt Snapshot - Nov 2016 Excel Spreadsheet		4504 07-14	N/A		2018.10.30
RX2747	11/2/2016	Email From N. Barenz To B. Brady, D. Wingard re: Monthly APC Snapshot 10-16 NB.xlsx (Monthly APC Snapshot 10-16 NB.xlsx attached)		4504 07-14	N/A		
RX2748	10/1/2016	Monthly Alternative Purchasing Channels Snapshot - Oct 2016 Excel Spreadsheet		4504 07-14	N/A		2018.10.30
RX2749	11/8/2017	Email From D. Wingard To S. Graverson re: Monthly APC Snapshot 10 2017 DV.xlsx (Monthly APC Snapshot 10 2017 DV.xlsx attached)		4504 07-14	N/A		
RX2750	10/1/2017	Monthly Alternative Purchasing Channels Snapshot - Oct 2017 Excel Spreadsheet		4504 07-14	N/A		2018.10.30
RX2751	11/3/2009	Letter from L. Lehman (Schein) to Dr. Sonnenburg (Advantage Dental) re: Volume Purchase Agreements		4504 07-14	N/A		
RX2752	7/23/2002	Sullivan-Schein Dental Members - Proposal to Advantage Dental Members		4504 07-14	N/A		
RX2753		Document announcing Henry Schein & Universal Dental Alliance Partnership as well as the benefits that come with being a part of the alliance.		4504 07-14	N/A		
RX2754	4/18/2012	Email from Steve Dutton to Joe Cavaretta re Propose Co-op HSD Agreement for Vegas.doc for call; Proposed Co-op HSD Agreement for Vegas and Dental Co-Op for 2013.doc attached		4504 07-14	N/A		
RX2755	4/2/2013	Email from Stanley Bergman to Rick Cohen, Chuck Cohen, Jim Breslawski and Mark Mlotek Re: breakfast discussion		4504 07-14	N/A		
RX2756	1/8/2013	Email from Stanley Bergman to Tim Sullivan, Jim Breslawski and Mark Mlotek Re: Chuck C / Adec - Confidential		4504 07-14	4081:03-4083:08		
RX2757	4/4/2013	Email from Michael Porro to Robert Anderson and Tim Sullivan Re ADC - Hot		4504:07-14	N/A		
RX2758	6/6/2016	Email from Kathleen Titus to Joe Cavaretta and Kyle Dean re Follow Up to 4/22/14 Email		4504 07-14	N/A		
RX2759	12/10/2010	Email from Glenn Showgren to Dean Kyle Re: S. Texas Hires		4504:07-14	756:20-759 03		
RX2760	2/21/2012	Email from Brian Watson to Jim Breslawski RE: Henk meeting notes		4504 07-14	N/A		
RX2761	10/30/2009	Email from Tim Sullivan to Stanley Bergman, Dave Steck and Jim Breslawski Re: Nathan Cox		4504 07-14	752:08-753:18		
RX2762	2012	Council Connections Annual Review (Q3 2011 - Q2 2012) PowerPoint		4504 07-14	N/A		
RX2763	12/1/2010	Texas Association of Community Health Centers Supply, Equipment and Repair Service Agreement		4504 07-14	N/A		
RX2764	11/15/2014	Email from John C. Kois Re: Kois Tribal Membership Update naming Burkhart Dental as US distribution partner		4504 07-14	N/A		
RX2765	12/3/2013	Email from S. Anderson to T. Sullivan, (CC Michael Augins, S. Anderson) re: Price Gary 2013 Performance Review docx		4504 07-14	N/A		
RX2766	11/18/2013	Email from T. Sullivan to M. Augins, S. Anderson re: Attached Image		4504 07-14	N/A		
RX2767	10/21/2012	Email from Unknown to Hal Muller re Q&A SM Field		4504:07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2768	5/9/2014	Dental Core VPA Review Jan-Apr 2014 vs 2013		4504 07-14	N/A		
RX2770	9/24/2013	Email from S. Anderson to T. Sullivan, (CC A. Moorman, G. Price, jntobin1@mmm.com) re: DTA Board Nomination		4504 07-14	N/A		
RX2771	9/24/2013	Email from S. Anderson to T. Sullivan, (CC A. Moorman, G. Price, nicolle@zirc.com) re: DTA Board Nomination		4504 07-14	N/A		
RX2772	8/1/2013	Email from T. Sullivan to S. Anderson re: 15 Mins on DTA		4504:07-14	N/A		
RX2773	7/30/2013	Email from S. Anderson to T. Sullivan re: Minnesota?		4504:07-14	N/A		
RX2774	6/8/2013	Email from T. Sullivan to S. Anderson re: Joan Austin		4504:07-14	N/A		
RX2775	3/28/2013	Email from S. Anderson to J. Breslawski re: Congrats		4504:07-14	N/A		
RX2776	3/12/2013	Email from S. Anderson to T. Sullivan re: Rumor Mill Stuff		4504:07-14	N/A		
RX2777	2/14/2013	Email from T. Sullivan to S. Anderson re: Pete Frechette contact info?		4504:07-14	N/A		
RX2779	1/6/2013	Email from S. Anderson to P. Lowe, T. Sullivan re: St. Croix River		4504 07-14	N/A		
RX2780	10/9/2013	Email from S. Anderson to P. Hirsch, G. Price, S. Anderson, T. Sullivan (CC sknight@crownsating.com) re: DTA Auction and DTA Foundation		4504 07-14	N/A		
RX2781	4/16/2012	Email from S. Anderson to G. Price, (CC B. Wise, P. Lowe, S. Anderson, T. Sullivan) re: Lunch Wednesday April 25		4504 07-14	N/A		
RX2782	8/6/2013	Email from T. Sullivan to G. Price, (CC S. Anderson, F. Freedman) re: DTA Auction Items		4504 07-14	N/A		
RX2783	8/16/2013	Email from T. Sullivan to S. Anderson re: FW: August 21st Visit to DTA; Jon Landers Projects.docx attached)		4504 07-14	N/A		
RX2784	8/13/2013	Schedule of T. Sullivan's Visit (to DTA) on Wednesday, August 21, 2013		4504 07-14	N/A		
RX2789	10/6/2009	Email from T. Sullivan to S. Anderson (CC B. Watson, J. Breslawski, M. Mlotek, S. Bergman, S. Paladino) re: Congrats Mr. President!		4504 07-14	4324:10-4325:11		
RX2790	11/20/2013	Email from David Misiak to Andrew Goldsmith, McFadden, and Paul Guggenheim re Smile Source		4504 07-14	N/A		
RX2791	11/3/2014	Email from Qadeer Ahmed to Lin Kahn re Open Items - Schein		4504:07-14	N/A		
RX2794	2015	Wall, Thomas, and Albert H. Guay. "Very large dental practices seeing significant growth in market share." Health Policy Institute Research Brief. Chicago: American Dental Association (2015), available at http://www.ada.org/~media/ADA/Science%20and%20Research/HPI/Files/HPIBrief_0815_2.ashx ("Wall and Guay 2015"), p. 1.		4504 07-14	N/A		
RX2795	2016	CCPA Purchasing Partners Vaccine Contracting & Compliance Form https://www.ccpapp.org/assets/1/7/7_2016_Vaccine_Contracting_and_Compliance_Form_Fillable1.pdf		4504 07-14	N/A		
RX2796	2017	Breakaway Practice - About Us Webpage, http://breakawaypractice.com/about-us		4504 07-14	N/A		
RX2797	2017	Breakaway Practice - Preferred Savings Club Webpage, http://breakawaypractice.com/files/landing/PreferredSavingsClubPackage.pdf		4504 07-14	N/A		
RX2798	2017	Colorado Community Health Network - About CCHN Webpage, http://cchn.org/about-cchn/		4504 07-14	N/A		
RX2799	2017	OrthoSynetics - Services Webpage, https://www.orthosynetics.com/services/		4504 07-14	N/A		
RX2800	7/9/1905	Fair Advantage Consortium Webpage - Frequently Asked Questions http://www.fairadvantageconsortium.com/frequentlyasked.html		4504 07-14	N/A		
RX2801	2/1/2009	National Discount Vaccine Alliance Membership Agreement http://nebula.wsimg.com/79e43736b37bf4e496ee7e8d092d1404?AccessKeyld=178AB8FC86C5F686B8A4&disposition=0&alloworigin=1		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2802	1/20/2012	Minnesota Multistate Contracting Alliance for Pharmacy Eligibility & Benefits Webpage https://web.archive.org/web/20120120230031/http://www.mmd.admin.state.mn.us/MMCAP/background/Benefits.aspx		4504 07-14	N/A		
RX2803	9/14/2012	United Dental Alliance Frequently Asked Questions Webpage https://web.archive.org/web/20120914010526/http://uniteddentalalliance.com/faqs/		4504 07-14	N/A		
RX2804	2/1/2014	American Dental Association Health Policy Institute Research Brief, "A Proposed Classification of Dental Group Practices," February 2014, available at https://www.ada.org/~media/ADA/Science%20and%20Research/HPI/Files/HPIBrief_0214_2.pdf?la=en		4504 07-14	N/A		
RX2805	4/2/2014	Unified Smiles Frequently Asked Questions Webpage https://web.archive.org/web/20140402164037/http://www.unifiedsmiles.com/faq		4504 07-14	N/A		
RX2806	8/10/2014	Synergy Dental Partners Frequently Asked Questions Webpage https://web.archive.org/web/20140810010108/http://www.thesynergydentalpartners.com:80/faqs/		4504 07-14	N/A	RXD0001	
RX2808	8/5/2015	Document Hold Letter from Emily Burton (FTC) to Marjorie Han (Schein)		4504:07-14	N/A		
RX2809	8/11/2015	Dental Peers Buying Group Frequently Asked Questions Webpage https://web.archive.org/web/20150811230111/http://dentalpeers.ca/about/faqs/		4504 07-14	N/A		
RX2810	3/29/2016	Civil Investigative Demand issued to Henry Schein, Inc.		4504:07-14	N/A		
RX2811	3/29/2016	Subpoena Duces Tecum issued to Henry Schein, Inc.		4504:07-14	N/A		
RX2812	3/29/2016	Form 1157 - Claims for Witness Attendance Fees, Travel, and Miscellaneous Expenses		4504 07-14	N/A		
RX2813	11/2/2016	Dental Purchasing Group - Frequently Asked Questions Webpage https://web.archive.org/web/20161102053802/http://www.dentalpurchasinggroup.com:80/faqs/		4504 07-14	N/A		
RX2815	4/1/2017	PedsPal Group Purchasing Program Participation Application http://www.pedspal.org/SiteCollectionDocuments/Join/PEDSPAL-JoinNow.pdf		4504 07-14	N/A		
RX2817	7/28/2017	CCPA Purchasing Partners, LLC Vaccine Contracting Guide https://www.ccpapp.org/file.aspx?DocumentId=351		4504 07-14	N/A		
RX2818	11/6/2017	Commonwealth Purchasing Group GPO Frequently Asked Questions Webpage https://web.archive.org/web/20171106093352/http://www.cwpurchasing.com:80/about/faqs		4504 07-14	N/A		
RX2820	1/1/2018	American Dental Association Health Policy Institute, "Supply of Dentists in the US, 2001-2017," January 2018, available at: https://www.ada.org/en/science-research/health-policy-institute/data-center/supplyand-profile-of-dentists		4504 07-14	N/A		
RX2821	4/28/2018	Patterson 2018 10-K		4504 07-14	N/A		
RX2822	7/26/2018	CASA Physicians Alliance Webpage - Join https://www.casaalliance.net/join		4504:07-14	N/A		
RX2823	8/15/2018	Cover Letter and Appendix B Errata of Marshall Report		4504:07-14	N/A		
RX2824	8/30/2018	Errata Report of Robert C. Marshall		4504:07-14	N/A		
RX2825	9/3/2018	Unified Smiles Frequently Asked Questions Webpage http://www.unifiedsmiles.com/faqs/		4504 07-14	N/A	RXD0001	
RX2826	9/3/2018	Synergy Dental Partners Frequently Asked Questions Webpage, https://www.thesynergydentalpartners.com/faqs/		4504 07-14	N/A		
RX2827	9/3/2018	Unified Smiles Frequently Asked Questions Webpage, http://www.unifiedsmiles.com/faqs/		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2828	9/13/2018	Corydon Palmer Dental Society Endorsed Partners Webpage, http://www.corydonpalmerdental.org/member-center/benefits-of-membership/endorsed-companies		4504 07-14	N/A		
RX2829	9/5/2018	Commonwealth Purchasing Group GPO Frequently Asked Questions Webpage http://www.cwpurchasing.com/about/faqs		4504 07-14	N/A		
RX2830	9/5/2018	Dental Purchasing Group - Frequently Asked Questions Webpage http://www.dentalpurchasinggroup.com/faqs/		4504 07-14	N/A		
RX2831	9/5/2018	Dentistry Unchained - Frequently Asked Questions Webpage https://dentistryunchained.com/faqs/		4504 07-14	N/A		
RX2832	9/5/2018	Dennis Carlton FTC Expert Report		4504:07-14	3148:12-3149:19 5366:04-5374:05 5380:08-5382:02 5390:21-5391:07 5403:05-5405:07 5424:23-5426:10 5431:17-5432:14 5433:09-5442:16 5444:09-5453:22 5458:16-5461:14 5464:25-5470:19 5571:09-5572:17	RXD0001	2018.10 30 (redacted portions of report)
RX2833	9/5/2018	Lawrence Wu FTC Expert Report		4504 07-14	5025:19-5034:01 5035:21-5036:10 5041:24-5049:07 5076:06-5086:06 5094:19-5104:19 5106:13-5116:20 5160:133-5177:19	CXD0016; CXD0019; CXD0020; CXD0021; CXD0022; CXD0023; CXD0024; CXD0025; CXD0032; CXD0034	2018.10 30 (redacted portions of report)
RX2834	9/5/2018	John Johnson FTC Expert Report		4504:07-14	4780:03-4787:10 4884:11-4896:24 4905:22-4913:23 4920:07-4929:25		2018.10 30 (redacted portions of report)
RX2835	9/6/2018	Dental Peers Buying Group Frequently Asked Questions Webpage, http://dentalpeers.ca/faq/		4504 07-14	N/A		
RX2836	9/13/2018	CNECT GPO - CNECT to our Suppliers Webpage, http://cnectgpo.com/cnect-to-our-suppliers/		4504 07-14	N/A		
RX2837	9/13/2018	CNECT GPO - Our Services Webpage, http://cnectgpo.com/our-services/#gpo-services		4504 07-14	N/A		
RX2838	9/13/2018	Dental Gator - Our Story Webpage (v.2), http://dentalgator.com/our-story/		4504 07-14	N/A		
RX2839	9/13/2018	Dental Gator - Services Webpage, http://dentalgator.com/services/		4504 07-14	N/A		
RX2840	9/13/2018	Dental Partners of Georgia - Benefits of Membership, http://dentalpartnersga.com/bencard.pdf		4504 07-14	N/A		
RX2841	9/13/2018	Infinity Dental - Management Webpage, http://infinitydentalusa.com/management.php		4504 07-14	N/A		
RX2842	9/13/2018	Infinity Dental - Story Webpage, http://infinitydentalusa.com/story.php		4504:07-14	N/A		
RX2843	9/13/2018	Henry Schein - About Us Webpage, http://investor.henryschein.com/phoenix.zhtml?c=74322&p=aboutus&hmode=n&h_domain=www.henryschein.com&h_locale=us-en		4504 07-14	N/A		
RX2844	9/13/2018	Intermountain Dental Association - Welcome Page, http://teamida.com/		4504 07-14	N/A		
RX2845	9/13/2018	Intermountain Dental Association - About Our Network, http://teamida.com/about-our-network		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2846	9/13/2018	Intermountain Dental Association - Business Services, http://teamida.com/business-services		4504 07-14	N/A		
RX2847	9/13/2018	Intermountain Dental Association - Offices and Locations, http://teamida.com/offices-and-locations		4504 07-14	N/A		
RX2848	9/13/2018	Denali Group - About Us Webpage, http://thedenaligroup.net/about-us/		4504:07-14	N/A		
RX2849	9/13/2018	Denali Group - Services Webpage, http://thedenaligroup.net/services/		4504 07-14	N/A		
RX2850	9/13/2018	Alpha Omega - About Us Webpage, http://www.ao.org/about/		4504:07-14	N/A		
RX2851	9/13/2018	Alpha Omega - Membership Webpage, http://www.ao.org/membership/join-ao/		4504 07-14	N/A		
RX2852	9/13/2018	Corydon Palmer - Learn More Webpage, http://www.corydonpalmerdental.org/		4504 07-14	N/A		
RX2853	9/13/2018	Corydon Palmer - Membership Benefits Webpage, http://www.corydonpalmerdental.org/member-center/benefits-of-membership		4504 07-14	N/A		
RX2854	9/13/2018	CommonWealth Purchasing Group - About Us Webpage, http://www.cwpurchasing.com/about-us		4504 07-14	N/A		
RX2855	9/13/2018	CommonWealth Purchasing Group - Join Now Webpage, http://www.cwpurchasing.com/join-now		4504 07-14	N/A		
RX2856	9/13/2018	Dentists for a Better Huntington - Who We Are, http://www.dds4huntington.org/about-us/who-we-are/		4504 07-14	N/A		
RX2857	9/13/2018	Dental Co-op - Homepage Webpage, http://www.dentalcoop.com/		4504 07-14	N/A		
RX2858	9/13/2018	Dental Co-op - About Us Webpage, http://www.dentalcoop.com/aboutus/		4504 07-14	N/A		
RX2859	9/13/2018	Dental Co-op - Programs Webpage, http://www.dentalcoop.com/programs/		4504 07-14	N/A		
RX2860	9/13/2018	Dental Co-op - Purchasing Programs Webpage, http://www.dentalcoop.com/programs/purchasing/		4504 07-14	N/A		
RX2861	9/13/2018	Dental Co-op - Where We Operate Webpage, http://www.dentalcoop.com/whereweoperate/		4504 07-14	N/A		
RX2862	9/13/2018	Mid-Atlantic - About Us Webpage, http://www.mid-atlanticdental.com/		4504 07-14	N/A		
RX2863	9/13/2018	Mid-Atlantic Dental - Montco DSO Ahead of Schedule Webpage, http://www.mid-atlanticdental.com/drilling-montco-dso-ahead-schedule-eight-dental-practice-deals-first-year/		4504 07-14	N/A		
RX2864	9/13/2018	Mid-Atlantic - \$15M Support for Regional Dental Practices Webpage, http://www.mid-atlanticdental.com/madp-launch-release/		4504 07-14	N/A		
RX2865	9/13/2018	Mid-Atlantic - Management Services, http://www.mid-atlanticdental.com/services/		4504 07-14	N/A		
RX2866	9/13/2018	Minnesota Multistate Contracting Alliance for Pharmacy - About Us webpage, http://www.mmd.admin.state.mn.us/mmcap/		4504 07-14	N/A		
RX2867	9/13/2018	MMCAP - Government Serving Government Presentation, http://www.mmd.admin.state.mn.us/MMCAP/News/DataFile.aspx?fid=3374&pcid=10		4504 07-14	N/A		
RX2868	9/13/2018	CNECT GPO_Council Connections Reveals New Brand for Group Purchasing Services, CNECT, http://www.multivu.com/players/English/7958451-council-connections-rebrands-as-cnect/		4504 07-14	N/A		
RX2869	9/13/2018	Sunrise Dental - About Webpage, http://www.sunrisedentalsolutions.com/about-sunrise/		4504 07-14	N/A		
RX2870	9/13/2018	Sunrise Dental - Our Services Webpage, http://www.sunrisedentalsolutions.com/about-sunrise/our-services/		4504 07-14	N/A		
RX2871	9/13/2018	WACMHC - About Us, http://www.wacmhc.org/about-us		4504:07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2872	9/13/2018	WACMHC - Group Purchasing Program, http://www.wacmhc.org/programs/group-purchasing-program		4504 07-14	N/A		
RX2873	9/13/2018	WACMHC - Oral Health, http://www.wacmhc.org/programs/oral-health		4504 07-14	N/A		
RX2874	9/13/2018	WACMHC - Oral Health Care in the CHCs, http://www.wacmhc.org/programs/oral-health/item/51-community-oral-health-in-washington		4504 07-14	N/A		
RX2875	9/13/2018	Ascension - The Resource Group Receives No. 12 Ranking webpage, https://ascension.org/News/News-Articles/2016/03/10/12/04/The-Resource-Group-Receives-No-12-Ranking		4504 07-14	N/A		
RX2876	9/13/2018	CNECT GPO - Homepage webpage, https://cnectgpo.com/		4504 07-14	N/A		
RX2877	9/13/2018	Comfort Dental - Partnerships webpage, https://comfordental.com/comfordentalpartnerships/		4504 07-14	N/A		
RX2878	9/13/2018	Dental Partners of Georgia - About DPG webpage, https://dentalpartnersga.com/aboutDPG.htm		4504 07-14	N/A		
RX2879	9/13/2018	Dental Partners of Georgia - DPG Members webpage, https://dentalpartnersga.com/alphalist.htm		4504 07-14	N/A		
RX2880	9/13/2018	Dental Partners of Georgia - Frequently Asked Questions webpage, https://dentalpartnersga.com/faqs.htm		4504 07-14	N/A		
RX2881	9/13/2018	KlearImpact - Welcome webpage, https://klearimpakt.com/		4504 07-14	N/A		
RX2882	9/13/2018	Smile Source - About webpage, https://smilesource.com/about/		4504 07-14	N/A		
RX2883	9/13/2018	Smile Source - Vision/Mission webpage, https://smilesource.com/about/vision-mission/		4504 07-14	N/A		
RX2884	9/13/2018	Smile Source - Unsurpassed Buying Power webpage, https://smilesource.com/doctors/membership-benefits/unsurpassed-buying-power/		4504 07-14	N/A		
RX2885	9/13/2018	Steadfast Medical - Why Steadfast webpage, https://steadfastmedical.com/why-steadfast/		4504 07-14	N/A		
RX2886	9/13/2018	Teeth Tomorrow - Member Successes webpage, https://teeth tomorrow.com/for-doctors/member-successes/		4504 07-14	N/A		
RX2887	9/13/2018	Teeth Tomorrow - Top Network of Advanced Implant Dentists Fastest Growing webpage, https://teeth tomorrow.com/press-releases/top-network-advanced-implant-dentists-fastest-growing/		4504 07-14	N/A		
RX2888	9/13/2018	The Resource Group - About Us webpage, https://theresourcegroup.com/About/About-Us		4504 07-14	N/A		
RX2889	9/13/2018	The Resource Group - History webpage, https://theresourcegroup.com/About/History		4504 07-14	N/A		
RX2890	9/13/2018	The Resource Group - Participants webpage, https://theresourcegroup.com/Participants		4504 07-14	N/A		
RX2891	9/13/2018	The Resource Group - Solutions webpage, https://theresourcegroup.com/Solutions		4504 07-14	N/A		
RX2892	9/13/2018	Arizona Association of Community Health Centers About Us webpage https://www.aachc.org/about-us/		4504 07-14	N/A		
RX2893	9/13/2018	Acurity - About Us webpage, https://www.acurity.com/about/		4504:07-14	N/A		
RX2894	9/13/2018	Acurity - Our Model webpage, https://www.acurity.com/our-model/		4504 07-14	N/A		
RX2896	9/13/2018	American Dental Association - Health Policy Institute Supply and Profile of Dentists webpage, https://www.ada.org/en/science-research/health-policy-institute/data-center/supply-and-profile-of-dentists		4504 07-14	N/A		
RX2897	9/13/2018	Advantage Dental - About Us webpage, https://www.advantagedental.com/about-us.html		4504 07-14	N/A		
RX2898	9/13/2018	Advantage Dental - Welcome webpage, https://www.advantagedental.com/welcome.html		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2899	9/13/2018	Advantage Dental - What's the Advantage webpage, https://www.advantagedental.com/whats-the-advantage.html		4504 07-14	N/A		
RX2900	9/13/2018	Benco - Services webpage, https://www.benco.com/services/		4504 07-14	N/A		
RX2901	9/13/2018	Benco - Technology and Equipment webpage, https://www.benco.com/technology-and-equipment/		4504 07-14	N/A		
RX2902	9/13/2018	Children's Hospital Association - About the Association webpage, https://www.childrenshospitals.org/About-Us/About-the-Association		4504 07-14	N/A		
RX2903	9/13/2018	Children's Hospital Association - Membership webpage, https://www.childrenshospitals.org/About-Us/Membership		4504 07-14	N/A		
RX2904	9/13/2018	Dental Economics - Why Use a GPO Versus a Traditional Dental Dealer webpage, https://www.dentaleconomics.com/articles/print/volume-106/issue-4/practice/supply-chain-management-why-use-a-gpo-versus-a-traditional-dental-dealer.html		4504 07-14	N/A		
RX2905	9/13/2018	E&I Cooperative Services - About Us webpage, https://www.eandi.org/company/about-us/		4504 07-14	N/A		
RX2906	9/13/2018	Henry Schein- Our History webpage, https://www.henryschein.com/us-en/corporate/OurHistory.aspx?hsi_domain=www.henryschein.com&hsi_locale=us-en#1930s		4504 07-14	N/A		
RX2907	9/13/2018	Henry Schein - Financial Services webpage, https://www.henryschein.com/us-en/dental/		4504 07-14	N/A		
RX2908	9/13/2018	Louisiana Primary Care Association - Overview webpage https://www.lpca.net/main/about-lpca/overview		4504 07-14	N/A		
RX2909	9/13/2018	Henry Schein - A History of Success webpage, https://www.nxtbook.com/nxtbooks/henryschein/75anniversary/index.php		4504 07-14	N/A		
RX2910	9/13/2018	Oral Health - Schein Special Markets Celebrates its 10th National Sales Meeting webpage, https://www.oralhealthgroup.com/oralhealth/1003920803-1003920803/		4504 07-14	N/A		
RX2911	9/13/2018	Stark County Dental Society - About Stark webpage, https://www.starkcountydentalsociety.org/history		4504 07-14	N/A		
RX2912	9/13/2018	Texas Association of Community Health Centers - About TACHC webpage, https://www.tachc.org/about-tachc		4504 07-14	N/A		
RX2913	9/13/2018	Texas Association of Community Health Centers - Join TACHC webpage, https://www.tachc.org/join		4504 07-14	N/A		
RX2914	9/13/2018	Texas Association of Community Health Centers - Group Purchasing webpage, https://www.tachc.org/programs-services/group-purchasing/dental-services/merchandise		4504 07-14	N/A		
RX2915	9/13/2018	Texas Association of Community Health Centers - Merchandise webpage, https://www.tachc.org/programs-services/group-purchasing/dental-services/merchandise		4504 07-14	N/A		
RX2916	9/13/2018	Tralongo - About Us webpage, https://www.tralongo.net/about/		4504 07-14	N/A		
RX2917	9/13/2018	Tralongo - How it Works webpage, https://www.tralongo.net/opportunity/		4504:07-14	N/A		
RX2918	9/13/2018	Tralongo Merges with Dental Whale to Expand Opportunities for Dental Entrepreneurs webpage, https://www.tralongo.net/tralongo-merges-dental-whale-expand-opportunities-dental-entrepreneurs/		4504 07-14	N/A		
RX2919	9/13/2018	The Resource Group - Homepage webpage, https://theresourcegroup.com/		4504 07-14	N/A		
RX2920	9/13/2018	Advantage Dental Welcome Webpage, https://www.advantagedental.com/welcome.html		4504 07-14	N/A		
RX2921	9/13/2018	Illinois Primary Health Care Association - About Us Webpage, http://www.iphca.org/AboutUs.aspx		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2922	9/13/2018	Illinois Primary Health Care Association - Group Purchasing Webpage, http://www.iphca.org/MemberCenter/GroupPurchasing.aspx		4504 07-14	N/A		
RX2923	9/13/2018	Minnesota Multistate Contracting Alliance for Pharmacy - About Us webpage, http://www.mmd.admin.state.mn.us/mmcap/		4504 07-14	N/A		
RX2924	9/13/2018	Main Street Vaccines Webpage - Main Street Rewards program http://www.mainstreetvacs.com/index.php/pages/main-street-rewards-program		4504 07-14	N/A		
RX2925	9/13/2018	National Discount Vaccine Alliance Webpage - Frequently Asked Questions http://www.nationaldiscountvaccinealliance.com/faqs.html		4504 07-14	N/A		
RX2926	9/3/2018	United Dental Alliance Member Portal - Frequently Asked Questions Webpage, http://uniteddentalalliance.com/faqs/		4504 07-14	N/A		
RX2927	9/13/2018	CaDA - The Dentists Supply Company Frequently Asked Questions Webpage https://www.tdsc.com/faq		4504 07-14	N/A		
RX2928	9/5/2018	Kois Buyers Group - Members and Alumni Webpage https://www.koiscenter.com/kois-buyers-group/		4504 07-14	247:07-249:19	RXD0001	
RX2929	9/13/2018	Mari's List - Frequently Asked Questions Webpage https://www.marislist.com/faqs		4504 07-14	N/A		
RX2930	2018	Henry Schein At A Glance https://www.henryschein.com/us-en/images/Corporate/henry-schein-at-a-glance-2018-eng.pdf		4504 07-14	N/A		
RX2931		Henry Schein's Mosaic of Success https://www.henryschein.com/us-en/images/corporate/henry-scheins-mosaic-of-success.pdf		4504 07-14	N/A		
RX2932		Mission Statement & Corporate Charter https://www.henryschein.com/us-en/Corporate/MissionStatement.aspx?hsi_domain=www.henryschein.com&hsi_locale=us-en		4504 07-14	N/A		
RX2933	5/8/2017	Case 1:16-cv-00696-BMC-GRB Document 188-5 Declaration of Jim Breslawski		4504 07-14	N/A		
RX2934	4/27/2018	Complaint Counsel's Response to Patterson First Interrogatory		4504 07-14	4302:21-4308:19 4312:09-4313:05 4317:18-24 4988:24-4990:24 5622:10-5623:06 5624:22-5627:04	RXD0204	
RX2935	4/30/2018	Complaint Counsel's Response to Schein First Interrogatory		4504:07-14	N/A		
RX2936	5/15/2018	Complaint Counsel's Responses to Benco's First Interrogatory		4504 07-14	N/A		
RX2937	6/5/2018	Complaint Counsel's First Supplemental Response to Schein's First Set of Interrogatories (1-15)		4504 07-14	N/A		
RX2938	6/5/2018	Complaint Counsel's First Supplemental Response to Schein First Interrogatory		4504 07-14	N/A		
RX2941	7/20/2018	Tim Sullivan Deposition Transcript (2)		4504:07-14	N/A		
RX2942	7/20/2018	Tim Sullivan 30(b)(6) Deposition Transcript		4504:07-14	N/A		
RX2943	7/23/2018	Complaint Counsel's Response to Schein First Requests for Admission		4504:07-14	N/A		
RX2944	7/23/2018	Complaint Counsel's Response to Patterson First Requests for Admission		4504:07-14	N/A		
RX2945	7/23/2018	Complaint Counsel's Response to Benco First Requests for Admission		4504:07-14	N/A		
RX2946	7/26/2018	Joseph Cavaretta 30(b)(6) Deposition Transcript	RX2947	4504:07-14	N/A	RXD0001	
RX2947	7/26/2018	Joe Cavaretta 30(b)(6) Deposition Transcript	RX2946	4504:07-14	N/A		
RX2948	7/26/2018	Complaint Counsel's Response to Benco Second Interrogatory		4504:07-14	N/A		
RX2949	7/26/2018	Complaint Counsel's Response to Schein Second Interrogatory		4504 07-14	N/A		
RX2950	7/26/2018	Complaint Counsel's Response to Patterson Second Interrogatory		4504 07-14	N/A		
RX2951	7/27/2018	David Steck 30(b)(6) Deposition Transcript		4504:07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX2952	8/9/2018	Trevor Maurer Deposition Transcript		4504:07-14	N/A	RXD0001	2018.10.11 (specific portions in 10/29 order)
RX2953	8/15/2018	Mitchell Goldman Deposition Transcript		4504:07-14	N/A		
RX2954	8/15/2018	Complaint Counsel's Response to Benco Contention Interrogatories		4504 07-14	N/A		
RX2955	8/17/2018	Ryan Dew Deposition Transcript		4504:07-14	N/A		2018.10.29
RX2956	8/17/2018	Complaint Counsel's Response to Schein Contention Interrogatories No. 1-15		4504 07-14	N/A		
RX2957	8/17/2018	Complaint Counsel's Response to Schein Contention Interrogatories No. 16-23 25		4504 07-14	N/A		
RX2958	8/17/2018	Complaint Counsel's Supplemental Response to Patterson First Interrogatory		4504 07-14	4308:20-4310:18 5278:08-5280:07 5281:12-5282:09 5624:16-5627:04		
RX2959	8/17/2018	Complaint Counsel's Amended Response to Schein First Requests for Admission		4504 07-14	N/A		
RX2960	8/17/2018	Complaint Counsel's Supplemental Response to Patterson Second Interrogatory		4504 07-14	N/A		
RX2961	8/22/2018	Rob Lowther Deposition Transcript		4504:07-14	N/A		
RX2962	8/28/2018	Darci Wingard 30(b)(6) Deposition Transcript	CX8009	4504:07-14	N/A		
RX2965	10/4/2018	John Johnson Deposition Transcript		4504:07-14	4897 03-18 4913:25-4914:18		2018.10.30 (specific portions)
RX2966	10/5/2018	Dennis Carlton Deposition Transcript		4504:07-14	5461:24-5463:20		
RX2967	10/9/2018	Lawrence Wu Deposition Transcript		4504:07-14	N/A		2018.10.30
RX2990	6/21/2018	Patterson Amended Response to Complaint Counsel's Third Interrogatory		4504 07-14	N/A		
RX2995	4/23/2018	Benco Response to Complaint Counsel's Second Interrogatory		4504:07-14	N/A		
RX2998	7/23/2018	Benco Response to Complaint Counsel's First Requests for Admission (1-50)		4504:07-14	N/A		
RX3007	7/23/2018	Schein Response to Complaint Counsel's First Requests for Admission		4504:07-14	N/A		
RX3009	7/23/2018	Patterson Responses and Objections to Complaint Counsel's Requests for Admission		4504 07-14	N/A		
RX3015	7/26/2018	Patterson Response to Fifth Complaint Counsel's Interrogatory		4504 07-14	N/A		
RX3057		Marshall Backup File: Burkhart-Kois profits.xlsx		4504:07-14	N/A	RXD0014	
RX3058	2012	Marshall Backup File: Schein 2012 profits.xlsx		4504:07-14	3069:18-3075:06 3086:20-3088:01 3094:13-3095:10	RXD0014	
RX3059		Marshall Backup File: Burkhart profits.xlsx		4504:07-14	N/A	RXD0014	
RX3060		Marshall Backup File: ADS profits.xlsx		4504:07-14	N/A	RXD0014	
RX3061		Figure 68 from Marshall expert report with corrected sample		4504 07-14	N/A		2018.10.30
RX3062		Schein Sales to Buying Groups According to Dr. Marshall		4504 07-14	N/A		2018.10.30
RX3063	2012	Schein 2012 Profits Back-Up Spreadsheet - Adjusted (Version 1)		4504 07-14	N/A		
RX3064	2012	Schein 2012 Profits Back-Up Spreadsheet - Adjusted (Version 2)		4504 07-14	N/A		
RX3065	2012	Schein 2012 Profits Back-Up Spreadsheet - Adjusted (Version 3)		4504 07-14	N/A		
RX3066	2017	Schein 2017 Profits Back-Up Spreadsheet - Adjusted		4504:07-14	N/A		2018.10.30
RX3067	9/29/2018	OrthoSynthetics - The Hidden Soft Costs of Supplies Webpage, https://www.orthosynthetics.com/hidden-soft-costs-supplies/		4504 07-14	N/A		
RX3068	2012	Robert C. Marshall & Leslie M. Marx, The Economics of Collusion, Cartels and Bidding Rings 7-9 (2012)		4504 07-14	N/A		
RX3069	2017	Marshall Backup File: Schein 2017 profits.xlsx		4504:07-14	N/A		2018.10.30
RX3070		Marshall Deposition Exhibit 1		4504 07-14	N/A		
RX3071		Marshall Deposition Exhibit 2		4504 07-14	N/A		
RX3072	11/9/2014	Email from Dave Anderson to Greg Biersack and Jeff Reece Re: Kois Tribe Membership program; Sunday call with Dr. Kois		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RX3073	12/3/2008	Email from Joe Cavaretta to Lynne McHugh and Tim Sullivan RE: Steadfast Medical		4504 07-14	N/A		
RX3074	1/2/2009	Email from Kyle Dean to Randall McLemore RE STEADFAST Medical		4504 07-14	N/A		
RX3075	7/3/2010	Email from Randall McLemore to Matt Zolfo Re: Airgas cylinder pricing		4504 07-14	N/A		
RX3076	3/2/2014	Email from lawtrac.contractalerts@henryschein.com to Jim Breslawski Re: Key Dates Notification		4504 07-14	N/A		
RX3077	9/24/2014	Email from Marc Beaudet to Paul Guggenheim and Ross McCallum Re: Revisiting John Kois' Buying Group		4504 07-14	N/A		
RX3078	1/1/2014	Agreement between Darby and New Orleans Dental Association		4504 07-14	N/A	RXD0001	2018.10.11
RX3079	7/21/2014	Agreement between Darby and Smile Source		4504 07-14	N/A		2018.10.11
RX3080	5/14/2013	Agreement between Darby and Unified Smiles		4504 07-14	N/A		2018.10.11
RX3081	11/1/2013	Agreement between Darby and Dental Purchasing Group of New England (DPG)		4504 07-14	N/A	RXD0001	2018.10.11
RX3082	10/1/2016	Agreement between Darby and Dental Partner Connection		4504 07-14	N/A	RXD0001	2018.10.11
RX3083	10/1/2016	Agreement between Darby and Synergy Linx		4504 07-14	N/A	RXD0001	2018.10.11
RX3084	4/28/2011	Agreement between Darby, David and Richard Madow, and Creative Management Resources		4504 07-14	N/A	RXD0001	2018.10.11
RX3085	9/1/2014	Agreement between Darby and Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP)		4504 07-14	N/A	RXD0001	2018.10.11
RX3086	9/28/2018	Respondent Henry Schein, Inc.'s Supplemental Objections and Responses to Complaint Counsel's Interrogatories Nos. 1, 2, 10, 11, 18, 19, 20 and 21		4504 07-14	N/A	RXD0001	
RX3087	9/20/2018	Complaint Counsel's Second Amended Response and Objections to Respondent Henry Schein, Inc's First Set of Interrogatories		4504 07-14	N/A	RXD0001	
RX3088	10/20/2014	Email from Dave Anderson to Jerry Ritsema and Jeff Reece re: Phone meeting set with Equilzer ProService FW: Kois Tribal Membership Program		4504 07-14	N/A		
RX3089	11/4/2014	Email from Dave Anderson to Qadeer Ahmed with John Kois cc'd re: Six Dentist Questions, Six Questions for US		4504 07-14	N/A		
RX3090	12/22/2015	Email from Kathleen Titus to Andrea Hight Re: Dentistry Unchained...Beta Draft		4504 07-14	N/A		
RX3091		Carlton Deposition Exhibit 4		4504 07-14	N/A		
RX3093	2014	Dental Gator Membership Affiliate Services Agreement		4504 07-14	N/A		
RX3095	12/1/2009	Texas Association of Community Health Centers Agreement		4504:07-14	N/A		
RX3096	12/1/2009	Henry Schein and Texas Associations of Community Health Centers Equipment Agreement		4504 07-14	N/A		
RX3098	4/4/2013	Meeting invitation from Carol Pampel to Jim Breslawski, Tim Sullivan, Dave Steck, Joe Cavaretta, Kam Gantos, Graham Stanley, Chris Peterson, Betty Unger, Becky Schmidkonz, Gail Landwer, Theresa Hoff and Colleen Sullivan Re: AD Role Discussion		4504 07-14	N/A		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RXD0001		Schein Opening PowerPoint		4504 07-14	3901:10-3903:22 4511:14-4513:05	CX0020; CX0023; CX0061; CX0174; CX0196; CX0199; CX0238; CX0255; CX0311; CX1052; CX1099; CX1118; CX1207; CX1219; CX2021; CX2113; CX2130; CX2135; CX2187; CX2208; CX2231; CX2573; CX2607; CX2832; CX3117; CX3130; CX6027; CX6500; CX6501; CX6505; CX7101; CX8009; CX8010; CX8022; CX8025; CXD0011; RX2079; RX2083; RX2197; RX2213; RX2256; RX2328; RX2336; RX2349; RX2382; RX2432; RX2444; RX2504; RX2602; RX2651; RX2718; RX2806; RX2825; RX2832; RX2928; RX2946; RX2952; RX2974; RX3030; RX3078; RX3081; RX3082; RX3083; RX3084; RX3085; RX3086; RX3087	
RXD0005		FTC Opening Slide 5 (The Agreement)		5663:04-07	1238 01-21 1501:18-1505:15 1853 04-25 2467:04-2468:03 2836:05-2838:04 3652:01-3653:10 3708 01-17 4017:07-4019:06 4463:12-4464:21 4599:19-4601:22 4956 05-19 5191:24-5192:17 5349:23-5350:11 5505:19-5506:14 5528:16-5531:19		
RXD0006		FTC Opening Slide 11 (Bencko Discovered Schein's Buying Group Arrangement in 2011)		5663 04-07	854:02-15		
RXD0007		Photograph		5663 04-07	903:25-904:14		
RXD0008	4/2013	March 2013 - April 2013 Calendar		5663 04-07	892:03-05 1001:09		
RXD0009	4/2013	March 2013 - April 2013 Calendar with C. Kass writing		5663:04-07	892:06-895:11 1001:10		
RXD0010		Discounts needed to break even at a royalty rate of 1.75%		5663 04-07	2063:02-2064:06 2065 09-16 2187:14-2188:11 2189:10-21		
RXD0011		Discounts needed to break even at a royalty rate of 1%		5663 04-07	2073:13-2074:01 2189:22-2190:08		
RXD0012		Discounts needed to break even at a royalty rate of 1.2%		5663 04-07	2074:08-2075:05 2190 08-15		
RXD0014		Marshall Profitability PowerPoint		5663:04-07	3031:09-3069:13 3088:09-3099:14 3114:04-3118:13	CX7100; RX3057; RX3058; RX3059; RX3060	
RXD0015		Pros and Cons List from Meadows		5663:04-07	3014:06-3018:20		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RXD0016		Marshall List of 38 Buying Groups		5663:04-07	2985:22-2996:21 3007:05-3014:04	CX7100	
RXD0017		FTC Opening Slide 54 (Schein Attempted to Cheat)		5663:04-07	2957:01-23		
RXD0018		Schein's Sales to Buying Groups Slide		5663:04-07	2976:09-2983:09	CX7101	
RXD0019		Henry Schein US Dental Business Demonstrative		5663:04-07	4035:01-4038:18 4039:12-4040:02 4041 03-07 4044:13-4045:02		
RXD0020		Henry Schein Dental - Technician (Slide 105)		5663:04-07	4038:19-4039:11		
RXD0021		Indianapolis Distribution Center (Slide 106)		5663:04-07	4040:04-4041:02		
RXD0022		Dallas Showroom (Slide 107)		5663 04-07	4041:08-4044:12		
RXD0023		Henry Schein Catalog		5663 04-07	4045:03-4048:09		
RXD0024		Practice Care Wheel (Slide 104)		5663 04-07	4048:11-4054:15 5543:01-5545:16		
RXD0025		Henry Schein Dental Business Solutions		5663:04-07	4054:18-4060:09		
RXD0026		"Open Relationship"		5663 04-07	4083:09-4084:03		
RXD0027		Smile Source PP Timeline		5663 04-07	4132:17-4146:22 4156:18-4183:24	CX0199; CX2113; CX2122; CX2298; CX2299; CX2453; CX2454; CX2462; CX2587; CX2606; CX2889; CX4099; RX2090; RX2092; RX2116; RX2152; RX2160; RX2328; RX2346; RX2419; RX2421; RX2444; RX2619	
RXD0028		ADC PP Timeline		5663 04-07	4183:25-4217:01	CX0196; CX0197; CX1476; CX1486; CX2020 ; CX2021; CX2051	
RXD0029		FTC Opening Slide 15 (Benco Enforced Agreeemet with Schein in 2012)		5663:04-07	4217:17-4218:14 4692:22-4694:21		
RXD0030		Exisiting/New SM BG List (Used with Foley)		5663:04-07	4604:04-4606:17 4619:16-20 4662:23-4663:02		
RXD0033		Carlton Summary of Opinions		5663 04-07	5359:16-5362:18		
RXD0034		FTC Opening Slide 51 (Schein Instructed Its Sales Force to Reject Buying Groups		5663 04-07	5533:21-5535:16		
RXD0102		Guidelines SSNIP Test		5663 04-07	3334:10-3346:02		
RXD0103		Guidelines SSNIP Test (So. Cal.)		5663 04-07	3346:03-3361:12		
RXD0104		Improving Critical Loss Analysis		5663 04-07	3362:09-3364:25		
RXD0105		Johnson Testimony PPT		5663 04-07	4810:23-4816:08	CX7100	
RXD0201		BDS-AZ00034145		5663 04-07	941:13-942 01		
RXD0202		Photographs of RX0737		5663 04-07	1476:15-1479:01		
RXD0203		Photograph of Original Patterson Store		5663:04-07	1716:21-1717:15		
RXD0204		Patterson Joined the Alleged Conspiracy in February 2013		5663 04-07	3206:08-3207:08		
RXD0205		The Alleged Conspiracy Ended in April 2015		5663:04-07	3212:12-3213:23		
RXD0206		Dr. Marshall Studied a Total of 612 Dentists' Purchases in Section V.D.1-3		5663:04-07	3219:22-3220:07 2332:10-24	CX7100	
RXD0206A		Dr. Marshall Studied a Total of 612 Dentists' Purchases in Section V.D.1-3 (dollar signs removed)		5663 04-07	3220:08-09	CX7100	
RXD0207		Burkhart & Kois Profitability		5663 04-07	3227:09-3229:05 5049:09-5050:04	CX7100	
RXD0208		Burkhart & Smile Source Profitability		5663:04-07	3227:08 3232:02-3235:07	CX7100	
RXD0209		Atlanta Dental & Smile Source Profitability		5663:04-07	3235:10-3241:05	CX7100	
RXD0210		Supreme Court Precedent		5663 04-07	3242:03-3243:18		
RXD0211		Governemnt of Canada - Federal Corporation Information		5663 04-07	4494:19-4496:06		
RXD0212		Denistry Unchained - Our History		5663:04-07	3273:24-3274:16		

Exhibit	Date	Description	Also Referenced As	Admissibility	Transcript Page Range	Summary Exhibit	In Camera Order
RXD0213		Complaint Counsel does Not Allege A Boycot of the Texas Dental Association Trade Show		5663 04-07	3302:07-14		
RXD0214		Atlantic Dental Care Timeline		5663 04-07	3306:17-3308:08	CX0093; CX0094; CX2020; CX2021; CX2579; CX3412; RX3028	
RXD0215		New Mexico Dental Cooperative Timeline		5663:04-07	3319:15-3323:05	CX3334; CX3411; CX4090; CX8035	
RXD0216		"We Feel the Same Way About These"		5663 04-07	3324:01-16		
RXD0217		Trial Testimony of Paul Guggenheim		5663:04-07	3324:20-3326:06		
RXD0218		The Economics of Collusion textbook excerpt		5663:04-07	3326:18-3330:06		
RXD0219		Incoherent Buying Group Management		5663 04-07	3259:10-19	CX8040	
RXD0220		Robert C. Marshall Testified in Court		5663:04-07	3178 09-23 3188:10-3189:13		
RXD0221		Memo ISO Defendants Motion in Limine to Exclude Marshall Reports		5663 04-07	3181:18-3184:25		
RXD0222		United States v. Birkhart Globistics		5663:04-07	3185:01-3188:08		
RXD0223		PDCO 00028264		5663 04-07	3640:24-3641:20		
RXD0224		PDCO 00028265		5663 04-07	3643:21-3645:07		
RXD0225		List of Documents Introduced		5663 04-07	4292:08-4293:05		
RXD0226		Assignment PPT Slide		5663 04-07	5034:02-5035:20		
RXD0227		Summary of Conclusions PPT Slide		5663:04-07	5036:12-5037:03		
RXD0228		Summary of Conclusions (cont.) PPT Slide		5663:04-07	5037:04-5039:02		
RXD0229		Conclusions - Dr. Marshall's Examples PPT Slide		5663:04-07	5039:03-5041:22		

Notice of Electronic Service

I hereby certify that on April 17, 2019, I filed an electronic copy of the foregoing Respondents' Joint Proposed Findings of Fact and Conclusions of Law, with:

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I hereby certify that on April 17, 2019, I served via E-Service an electronic copy of the foregoing Respondents' Joint Proposed Findings of Fact and Conclusions of Law, upon:

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