

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA

In re: OCA, INC., et al., Debtors.	* * * * * * *	CASE NO. 06-10179 (Jointly Administered) SECTION "B" CHAPTER 11
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ORDER

This matter came before the Court on August 30, 2006, after due notice, on the motions of Charles Corwin, D.D.S., Charles Corwin, D.D.S., P.C., Michael A. Crist, D.D.S., Michael A. Crist, D.D.S., P.C., Garland Watson, D.D.S., Garland Watson, D.D.S., P.C. a Professional Corporation, Michael Wetzel, D.D.S., Wetzel Orthodontics, P.C., Albert R. McWilliams, Jr., D.D.S., M.S. and Albert R. McWilliams, D.D.S., M.S., PLLC [Docket No. 1432], John Gentile, D.M.D. and John Gentile, D.M.D., P.C. [Docket No. 1399], James H. Mason, D.D.S., James H. Mason, D.D.S., P.C. and James H. Mason, D.D.S., P.L.L.C. [Docket No. 1403], Theresa L. Shaver, D.D.S., Shipwreck Ranch, P.C. and Front Range Orthodontics, P.C. [Docket No. 1405], Jonathan R. Weinbach [Docket No. 1407], Cornelius A. Nicholson, D.D.S. and Cornelius A. Nicholson, D.D.S., P.C. [Docket No. 1445], and Charles L. Schnibben, D.D.S., M.S. and Charles L. Schnibben, Ltd. [Docket No. 1434] (collectively, "Movers") for relief from the automatic stay (collectively, the "Motions"), and upon consideration of the omnibus objections of the Debtors [Docket No. 1582] and Movers' omnibus reply [Docket No. 1625], the record in this case,

applicable law, and the argument of counsel, and it appearing that there exists just cause for the granting of partial relief as set forth below;

IT IS HEREBY ORDERED that the Motions shall be, and hereby are, granted in part, only for the limited purpose set forth below, and otherwise denied;

IT IS FURTHER ORDERED that subject to the following decretal paragraph, the automatic stay under 11 U.S.C. § 362 shall be, and hereby is, modified to permit Movers, individually and collectively, to take all steps necessary to prosecute to final judgment in those certain pre-petition actions brought by or against the Debtors, pending before the courts in which any of those actions are or were originally pending, or where any of the same may be removed and/or transferred, including the following courts, respectively, only the claims regarding whether the contracts between the parties, including specifically the Business Service Agreements (as may have been amended), are void *ab initio*, illegal and/or unenforceable on their face under applicable state law, those courts being:

1. U.S. District Court for the Southern District of Texas, Houston Division
Civil Action No. H 05-2271
Corwin, et al. vs. Orthodontic Centers of America, Inc., et al.
2. State Court in the District Court of Wharton County, Texas
Civil Action No. 39,714-S
Orthodontic Centers of Texas, Inv. vs. Charles Corwin, D.D.S. and Charles Corwin, D.D.S., P.C.
3. State Court in the District Court of Travis County, Texas
Civil Action No. GN403542
Orthodontic Centers of Texas, Inc. vs. Michael Wetzel, D.D.S. and Wetzel Orthodontics, P.C.
- removed to -
U.S. District Court for the Western District of Texas, Austin Division
Civil Action No. 1:06-CV-00626-LY

4. State Court in the District Court of Bowie County, Texas
Civil Action No. 02C1520-202
Albert R. McWilliams, Jr. vs. Orthodontic Centers of Texas, Inc., et al.
- removed to -
U.S. District Court for the Eastern District of Texas, Texarkana Division
Civil Action No. 5:06-cv-00173
5. U.S. District Court for the District of Colorado
Civil Action No. 05-cv-02062-EWN-CBS
John Gentile, D.D.S., et al. vs. Orthodontic Centers of America, Inc., et al.
6. U.S. District Court for the District of Colorado
Civil Action No. 06-cv-00068-MSK-MJW
James H. Mason, D.D.S., et al. vs. Orthodontic Centers of America, Inc., et al.
7. U.S. District Court for the District of Colorado
Civil Action No. 06-cv-00151-WYD-CBS
Theresa L. Shaver, D.D.S., et al. vs. Orthodontic Centers of America, Inc., et al.
8. U.S. District Court for the District of Colorado
Civil Action No. 06-cv-00256-REB-MEH
Jonathan R. Weinbach, D.D.S., M.S., et al. vs. Orthodontic Centers of America, Inc., et al.
9. State Court in the Superior Court for King County, Washington
No. 05-2-33958-6 SEA
Dr. Cornelius Nicholson, DDS, et al. vs. Orthodontic Centers of America, Inc., et al.
- removed to -
United States Bankruptcy Court, Western District of Washington at Seattle
Adversary No. 06-01355
10. U.S. District Court for the Northern District of Illinois, Eastern Division
Case No. 04-c-4850
OrthAlliance, Inc. vs. Charles L. Schnibben, D.D.S., M.S., et al.

IT IS FURTHER ORDERED that Movers shall not initiate any action pursuant to this order in any of those courts prior to October 15, 2006, and that any such further proceedings initiated by any of Movers shall be subject to and governed by the Court's ruling in open Court on August 30, 2006, which is incorporated herein and made a part of this order:

THE COURT: All right. I've considered it fully and let me tell you what my proposed ruling is, then I'll give you one more shot there, Mr. Patrick, although you've got an uphill battle.

I'm thinking about granting the motion and lifting the stay for the limited purpose of allowing those movers named in the motions to present to the courts in whether they be state or federal in the states of Illinois, Texas, California –

...

THE COURT: Yes, I'm sorry. Colorado. Illinois, Colorado, Texas and Washington.

...

THE COURT: The limited question of whether the BSAs that – whether the BSAs are illegal on their face, whether you call that ab initio or de jure, or whatever you want to call it, whether they are illegal because it violates state law by their very provisions and not because of the way they were enforced or performed over a period of time.

In other words, I'm lifting the stay to allow these doctors to present to these four courts – or the courts of these four states the legal issue of whether the BSAs violate the state law policy of those states in question. And not to permit a lengthy factual trial in whether the BSAs as performed or as – as enforced by the OCA entity in question violated the state law.

...

THE COURT: What my intention is, is that you raise just the legal question with the courts of those four states and not raise a question that's going to involve a lengthy factual inquiry or factual dispute.

...

THE COURT: Well, I'm tying him up for 45 days now anyhow.

...

THE COURT: And if it turns out at the end of 45 days you're crucially involved in something in the confirmation plan in working towards the effective date, you're certainly not going to complete – you're not going to consummate it within 45 days. You'll probably be lucky if you can get it confirmed in 45 days. But you can always come back in and ask me to revisit it. But you're going to revisit it – we're going to revisit it from a different

standpoint, because the burden is going to be on you when you ask me to reinstate the stay.

...

THE COURT: And if you can show me that one or more of these cases, of these anticipated severe problems arise, I can always look at it again. There's nothing final about a motion lifting a stay. That's the beauty of it. It's not like a Motion for Abandonment.

IT IS FURTHER ORDERED that any remaining relief requested by any of the Motions shall be, and hereby is, denied without prejudice.

New Orleans, Louisiana, September 19, 2006.

Handwritten signature of Jerry A. Brown in cursive script.

Jerry A. Brown
U.S. Bankruptcy Judge

Bankruptcy Noticing Center
2525 Network Place, 3rd Floor
Herndon, Virginia 20171-3514

CERTIFICATE OF SERVICE

District/off: 053L-2
Case: 06-10179

User: kl
Form ID: pdf800

Page 1 of 1
Total Served: 1

Date Rcvd: Sep 20, 2006

The following entities were served by first class mail on Sep 22, 2006.
db +OCA, Inc. et al, 3850 North Causeway Blvd., Suite 800, Metairie, LA 70002-8133

The following entities were served by electronic transmission.
NONE.

TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

First Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 22, 2006

Signature: _____

