

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA**

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In re	:	Chapter 11 Case No.
	:	06-10179 (B)
OCA, INC., et al.,	:	
	:	(Jointly Administered)
Debtors.	:	
-----x		

**MOTION FOR ORDER PURSUANT TO SECTION 365(a) OF
THE BANKRUPTCY CODE APPROVING DEBTORS'
REJECTION OF AN UNEXPIRED LEASE**

NOW INTO COURT, through undersigned counsel, come OCA, Inc. and certain of its subsidiaries¹, as debtors and debtors-in-possession (collectively, the “Debtors”), who move this Court for entry of an Order Pursuant to Section 365(a) of the Bankruptcy Code Approving the Debtors’ Rejection of an Unexpired Lease. In support of this Motion, the Debtors respectfully state as follows:

¹ Orthodontic Centers of Alabama, Inc. (06-10180); Orthodontic Centers of Arizona, Inc. (06-10181); Orthodontic Centers of Arkansas, Inc. (06-10182); Orthodontic Centers of California, Inc. (06-10183); Orthodontic Centers of Colorado, Inc. (06-10184); Orthodontic Centers of Connecticut, Inc. (06-10185); Orthodontic Centers of Florida, Inc. (06-10186); Orthodontic Centers of Georgia, Inc. (06-10187); Orthodontic Centers of Illinois, Inc. (06-10188); Orthodontic Centers of Indiana, Inc. (06-10189); Orthodontic Centers of Kansas, Inc. (06-10190); Orthodontic Centers of Kentucky, Inc. (06-10191); Orthodontic Centers of Louisiana, Inc. (06-10192); Orthodontic Centers of Maine, Inc. (06-10193); Orthodontic Centers of Maryland, Inc. (06-10194); Orthodontic Centers of Massachusetts, Inc. (06-10195); Orthodontic Centers of Michigan, Inc. (06-10196); Orthodontic Centers of Minnesota, Inc. (06-10197); Orthodontic Centers of Mississippi, Inc. (06-10198); Orthodontic Centers of Missouri, Inc. (06-10199); Orthodontic Centers of Nebraska, Inc. (06-10200); Orthodontic Centers of Nevada, Inc. (06-10201); Orthodontic Centers of New Hampshire, Inc. (06-10202); Orthodontic Centers of New Jersey, Inc. (06-10203); Orthodontic Centers of New Mexico, Inc. (06-10204); Orthodontic Centers of New York (06-10205); Orthodontic Centers of North Carolina, Inc. (06-10206); Orthodontic Centers of North Dakota, Inc. (06-10207); Orthodontic Centers of Ohio, Inc. (06-10208); Orthodontic Centers of Oklahoma, Inc. (06-10209); Orthodontic Centers of Oregon, Inc. (06-10210); Orthodontic Centers of Pennsylvania, Inc. (06-10211); Orthodontic Centers of Puerto Rico, Inc. (06-10212); Orthodontic Centers of Rhode Island, Inc. (06-10213); Orthodontic Centers of South Carolina, Inc. (06-10214); Orthodontic Centers of Tennessee, Inc. (06-10215); Orthodontic Centers of Texas, Inc. (06-10216); Orthodontic Centers of Utah, Inc. (06-10217); Orthodontic Centers of Virginia, Inc. (06-10218); Orthodontic Centers of Washington, Inc. (06-10219); Orthodontic Centers of Washington, D.C., Inc. (06-10220); Orthodontic of West Virginia, Inc. (06-10221); Orthodontic Centers of Wisconsin, Inc. (06-10222); Orthodontic Centers of Wyoming, Inc. (06-10223); OrthAlliance, Inc. (06-10229); OrthAlliance New Image, Inc. (06-10230); OCA Outsource, Inc. (06-10231); PedoAlliance, Inc. (06-10232); Orthodontics Centers of Hawaii, Inc. (06-10503); Orthodontics Centers of Iowa, Inc. (06-10504); and Orthodontics Centers of Idaho, Inc. (06-10505).

Jurisdiction

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory basis for the relief requested herein is § 365(a) of the Bankruptcy Code.

Background

3. On the Petition Date, the Debtors each filed for relief under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”).

4. Since that time, the Debtors have continued to operate their businesses and manage their properties as debtors in possession, pursuant to §§ 1107 and 1108 of the United States Bankruptcy Code. No trustee or examiner has been appointed in this case.

Relief Requested

5. Debtors hereby request the Court to enter an order approving the rejection of the unexpired lease originally dated May 30, 1997, as amended and renewed as of April 5, 2004, by and between Orthodontic Centers of America, Inc. and Granite Properties (“Lessor”) for the premises located on Granite Run Drive in Lancaster, Pennsylvania (the “Lease”).

Basis for Relief

6. Section 365(a) of the Bankruptcy Code provides that a debtor in possession, subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor. **11 U.S.C. §365(a).**

7. A determination whether to assume or reject an executory contract must be based on the debtor’s business judgment as to whether assumption or rejection of such contract will

benefit the debtor's estate. ***Richmond Leasing Co. v. Capital Bank, N.A.***, 762 F.2d 1303, 1309 (5th Cir. 1985) (citing ***Group of Inst. Investors v. Chicago, Milwaukee, St. Paul and Pacific R. Co.***, 318 U.S. 523, 550 (1943)). It is well established that the decision to assume or reject an executory contract or unexpired lease is a matter within the "business judgment" of the debtor. ***Delightfully Music Ltd. v. Taylor***, 913 F.3d 102 (3rd Cir. 1990). The business judgment standard mandates that a court approved a debtor's business decision unless the decision is the project of bad faith, whim or caprice. ***Lubrizol Enters. v. Richmond Metal Finishes***, 756 F.2d 1043, 1047 (4th Cir. 1985), *cert denied*, 475 U.S. 1057(1986).

8. Section 365(a) provides a debtor with the ability to evaluate each contract and to assume only those that provide a benefit to the estate. ***See In re Mirant Corp.***, 378 F.3d 511, 520 (5th Cir. 2004) ("[I]n effect, Section 365 allows debtors to pick and choose among their agreements and assume those that benefit their estate and reject those that do not."); ***In re Topco***, 894 F.2d 727, 741 (5th Cir. 1990).

9. While the Debtors work towards a successful reorganization, they have a duty to preserve their estates for the benefit of all parties in interest. The Debtors have reviewed the Lease and have concluded that it provides no benefit to the Debtors' estate. Accordingly, the Debtors believe that this Court's approval of its rejection of the Lease is in the best interest of the Debtors' estates and creditors.

10. The Lease, set forth above, is burdensome to the Debtors and it would be in the best interest of the estate for the Lease to be rejected with such rejection effective as of November 7, 2006, the date that notice was given to the Lessor of the rejection of the Lease.

11. The Order authorizing the rejection should provide a thirty (30) day period in which the Lessor may file a claim for rejection damages.

WHEREFORE, the Debtors respectfully request that, after due notice and such hearing as this Court deems appropriate, this Court entered an order authorizing the Debtor to reject the Lease for the reasons set forth herein and for all other general and equitable relief as is just and proper.

Dated: November 8th, 2006.

Respectfully submitted,

**HELLER, DRAPER, HAYDEN, PATRICK
& HORN, L.L.C.**

William H. Patrick, III (#10359)
Warren Horn (#14380)
650 Poydras Street, Suite 2500
New Orleans, Louisiana 70130
Telephone: (504) 581-9595
Fax: (504) 525-3761

Attorneys for Debtors and Debtors-in-Possession

KINGSMILL RIESS, L.L.C.

s/ Marguerite K. Kingsmill
Marguerite K. Kingsmill (#7347)
Thomas P. Henican (#19292)
Christy R. Bergeron (#22944)
201 St. Charles Avenue, Suite 3300
New Orleans, Louisiana 70170-3300
Telephone: (504) 581-3300
Facsimile: (504) 581-3310

***Supplemental Litigation Counsel for Debtors and
Debtors-in-Possession***

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing upon all parties on the attached list, via United States Mail, postage prepaid this 8th day of November, 2006.

I hereby certify that I have served a copy of the above and foregoing upon the Lessor and the Lessor's agent at the following addresses via United States Mail, postage prepaid, this 8th day of November, 2006.

Bill Horst and Johncey Mathews
Horst Realty
205 Granite Run Drive
Suite 280
Lancaster, PA 17601

Granite Properties
320 Granite Run Drive,
P.O. Box 3330,
Lancaster, Pennsylvania 17604

s/ Marguerite K. Kingsmill

NOTICE ANNEX 1

Pursuant to 11 U.S.C. § 342, the address for each of the referenced Debtors is 3850 N. Causeway Blvd., Suite 800, Metairie, LA 70002

DEBTORS	CASE NO.	TAX I.D. NO.
OCA, Inc.	06-10179	xx-xxx8948
Orthodontic Centers of Alabama, Inc.	06-10180	xx-xxx7093
Orthodontic Centers of Arizona, Inc.	06-10181	xx-xxx1232
Orthodontic Centers of Arkansas, Inc.	06-10182	xx-xxx8907
Orthodontic Centers of California, Inc.	06-10183	xx-xxx9079
Orthodontic Centers of Colorado, Inc.	06-10184	xx-xxx7095
Orthodontic Centers of Connecticut, Inc.	06-10185	xx-xxx0411
Orthodontic Centers of Florida, Inc.	06-10186	xx-xxx7097
Orthodontic Centers of Georgia, Inc.	06-10187	xx-xxx7098
Orthodontic Centers of Hawaii, Inc.	06-10503	xx-xxx5963
Orthodontic Centers of Idaho, Inc.	06-10505	xx-xxx4277
Orthodontic Centers of Illinois, Inc.	06-10188	xx-xxx1230
Orthodontic Centers of Indiana, Inc.	06-10189	xx-xxx0663
Orthodontic Centers of Iowa, Inc.	06-10504	xx-xxx0342
Orthodontic Centers of Kansas, Inc.	06-10190	xx-xxx8908
Orthodontic Centers of Kentucky, Inc.	06-10191	xx-xxx0666
Orthodontic Centers of Louisiana, Inc.	06-10192	xx-xxx7100
Orthodontic Centers of Maine, Inc.	06-10193	xx-xxx4186
Orthodontic Centers of Maryland, Inc.	06-10194	xx-xxx1229
Orthodontic Centers of Massachusetts, Inc.	06-10195	xx-xxx5666
Orthodontic Centers of Michigan, Inc.	06-10196	xx-xxx6962
Orthodontic Centers of Minnesota, Inc.	06-10197	xx-xxx6453
Orthodontic Centers of Mississippi, Inc.	06-10198	xx-xxx7101
Orthodontic Centers of Missouri, Inc.	06-10199	xx-xxx6961
Orthodontic Centers of Nebraska, Inc.	06-10200	xx-xxx0483
Orthodontic Centers of Nevada, Inc.	06-10201	xx-xxx5665
Orthodontic Centers of New Hampshire, Inc.	06-10202	xx-xxx5495
Orthodontic Centers of New Jersey, Inc.	06-10203	xx-xxx2916
Orthodontic Centers of New Mexico, Inc.	06-10204	xx-xxx8906
Orthodontic Centers of New York, Inc.	06-10205	xx-xxx6960
Orthodontic Centers of North Carolina, Inc.	06-10206	xx-xxx7102
Orthodontic Centers of North Dakota, Inc.	06-10207	xx-xxx6959
Orthodontic Centers of Ohio, Inc.	06-10208	xx-xxx0361
Orthodontic Centers of Oklahoma, Inc.	06-10209	xx-xxx6958
Orthodontic Centers of Oregon, Inc.	06-10210	xx-xxx6342
Orthodontic Centers of Pennsylvania, Inc.	06-10211	xx-xxx2918
Orthodontic Centers of Puerto Rico, Inc.	06-10212	xx-xxx1568
Orthodontic Centers of Rhode Island, Inc.	06-10213	xx-xxx5667
Orthodontic Centers of South Carolina, Inc.	06-10214	xx-xxx7104
Orthodontic Centers of Tennessee, Inc.	06-10215	xx-xxx7106
Orthodontic Centers of Texas, Inc.	06-10216	xx-xxx8024
Orthodontic Centers of Utah, Inc.	06-10217	xx-xxx6957
Orthodontic Centers of Virginia, Inc.	06-10218	xx-xxx7107
Orthodontic Centers of Washington, Inc.	06-10219	xx-xxx1231
Orthodontic Centers of Washington, D.C., Inc.	06-10220	xx-xxx2484
Orthodontic Centers of West Virginia, Inc.	06-10221	xx-xxx4091
Orthodontic Centers of Wisconsin, Inc.	06-10222	xx-xxx6956
Orthodontic Centers of Wyoming, Inc.	06-10223	xx-xxx5961

OrthAlliance, Inc.	06-10229	xx-xxx2134
OrthAlliance New Image, Inc.	06-10230	xx-xxx0308
OCA Outsource, Inc.	06-10231	xx-xxx9255
PedoAlliance, Inc.	06-10232	xx-xxx0432

William H. Patrick, III
Heller Draper Hayden Patrick & Horn
650 Poydras Street, Suite 2500
New Orleans, LA 70130

Tristan Manthey
Heller Draper Hayden Patrick & Horn
650 Poydras Street, Suite 2500
New Orleans, LA 70130

Michael Gries
OCA, Inc.
3850 N. Causeway Blvd., Suite 800
Metairie, LA 70002

Office of the United States Trustee
400 Poydras Street, Suite 2110
New Orleans, LA 70130

SEC - Atlanta District Office
Office of Reorganization
Suite 1000, 3475 Lenox Road, N.E.
Atlanta, GA 30326-1232

Internal Revenue Service
1555 Poydras Street, Suite 220
Stop 31
New Orleans, LA 70112

Silver Point Capital
c/o Lemle & Kelleher
Alan H. Goodman
601 Poydras Street, 21st Floor
New Orleans, LA 70130

Silver Point Capital
c/o Lemle & Kelleher
Brent Wyatt
601 Poydras Street, 21st Floor
New Orleans, LA 70130

Silver Point Capital
c/o Milbank, Tweed, Hadley & McCloy
Attn: Dennis F. Dunne & Albert A. Pisa
1 Chase Manhattan Plaza
New York, NY 10005

Pete Joost
Jay Wampler, Patrick Honey
Bank of America, N.A.
901 Main Street, 66th Floor
Dallas, TX 75202-3714

Richard Goldstein, Keith R. Gaudioso
Goldstein, Tanen & Trench, P.A.
One Biscayne Tower, Suite 3700
Two South Biscayne Blvd.
Miami, FL 33131-1818

Arthur H. Rice
Craig A. Pugatch
Rice, Pugatch, Robinson & Schiller PA
101 NE Third Avenue, Suite 1800
Fort Lauderdale, FL 33301

David S. Bland
Robert J. Burvant
King, Leblanc & Bland, PLLC
201 St. Charles Ave., 45th Floor
New Orleans, LA 70170

William C. Gambel
Milling Benson Woodward L.L.P.
909 Poydras Street, Suite 2300
New Orleans, LA 70112-1010

Heather L. Landry
Milling Benson Woodward
214 Third Street, Suite 2B
Baton Rouge, LA 70801

Jeffrey B. Ellman
Jones Day
1420 Peachtree Street, N.E., Ste 800
Atlanta, GA 30309-3053

J. David Forsyth
Sessions Fishman & Nathan L.L.P.
201 St. Charles Avenue, 35th Floor
New Orleans, LA 70170-3500

Drue E. Banta
Sessions Fishman & Nathan L.L.P.
201 St. Charles Avenue, 35th Floor
New Orleans, LA 70170-3500

Elizabeth J. Futrell
Jones, Walker
201 St. Charles Avenue - 49th Floor
New Orleans, LA 70170

Peter C. Forbes
Horowitz & Forbes
3950 Republic Plaza
370 17th Street
Denver, CO 80202

Steve Michalek, Nancy D. Miller
Sandy Eloranto
Kennedy, Childs & Fogg, PC
1050 17th Street, Suite 2500
Denver, CO 80265

Robert J. Clary
Owens, Clary & Aiken, L.L.P.
700 North Pearl Street, Suite 1600
Dallas, TX 75201

Mark Brannum, Phillip Lamberson
Jaime Myers
Winstead Sechrest & Minick, P.C.
1201 Elm Street, Suite 5400
Dallas, TX 75270

B. Franklin Martin, III
McGlinchey Stafford, PLLC
643 Magazine Street
New Orleans, LA 70130

Richard T. Davis
The Cafaro Company
2445 Belmont Avenue
P.O. Box 2186
Youngstown, OH 44504-0186

Eric C. Cotton
Developers Diversified Realty Corp
3300 Enterprise Parkway
P.O. Box 228042
Beachwood, OH 44122

Dr. Curtiss W. Daughtry
517 W. Palmetto Street
Florence, SC 29501

William T. Herrscher
Boyd Viegel, P.C.
P.O. Box 1179
218 E. Louisiana Street
McKinney, TX 75070

Daniel A. Smith
Healey & Smith
650 Poydras Street, Suite 2345
New Orleans, LA 70130

R. Joseph Naus
Wiener, Weiss & Madison
P.O. Box 21990
Shreveport, LA 71120-1990

M. Allyn Stroud
Wiener, Weiss & Madison
P.O. Box 21990
Shreveport, LA 71120-1990

C. Davin Boldissar
Locke Liddell & Sapp LLP
601 Poydras Street, Suite 2660
New Orleans, LA 70130

Christopher S. Bowman
Armstrong Teasdale LLP
One Metropolitan Square, Ste 2600
St. Louis, Missouri 63102

Peter E. Shapiro
Shutts & Bowen LLP
200 East Broward Blvd., Ste 2100
Fort Lauderdale, FL 33301

Jeffrey Kurtzman
Klehr, Harrison, Harvey
260 S. Broad Street
Philadelphia, PA 19102

Scott Greenberg
One City Centre - 15th Floor
515 N. 6th Street
St. Louis, MO 63101

Allan C. Watkins
Watkins Law Firm, P.A.
707 North Franklin Street, Suite 750
Tampa, FL 33602

John K. Kooley, DDS
355 Parkway 575
Suite 100
Woodstock, GA 30188

Michael S. Etkin
Ira M. Levee
Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068

Stephen H. Kupperman
Barrasso Usdin Kupperman Freeman
& Sarver, LLC
909 Poydras Street, Suite 1800
New Orleans, LA 70112

Lawrence T. Burick
Thompson Hine LLP
2000 Courthouse Plaza NE
P.O. Box 8801
Dayton, OH 45401-8801

Billy R. Harris
408 West Oak Street
El Dorado, AR 71730

Mark K. Thomas
Peter J. Young
Jenner & Block
One IBM Plaza
Chicago, IL 60611-7603

Anna M. Halikas
783 Tramore Lane
Naples, FL 34108

Craig M. Cousins
George D. Fagan
Leake & Andersson, L.L.P.
1100 Poydras Street, Ste 1700
New Orleans, LA 70163-1701

Terence A. Hiller, Jr.
Kupelian Ormond & Magy PC
25800 Northwestern Hwy Ste 950
Southfield, MI 48075

Kenneth F. Tamplain, Jr.
Adams & Reese LLP
4500 One Shell Square
New Orleans, LA 70139

Richard S. Cohen
1806 Ok Okeechobee Road
Wet Palm Beach, FL 33409

Frederic S. Fox, Laurence D. King
Joel B. Strauss, Christine M. Fox
Kaplan Fox & Kilsheimer LLP
805 Third Avenue, 22nd Floor
New York, NY 10022

Maureen Conboy
AIG Domestic Claims, Inc.
175 Water Street, 5th Floor
New York, NY 10038

Omer F. Kuebel, III
Locke Liddell & Sapp LLP
601 Poydras Street, Suite 2660
New Orleans, LA 70130

David L. Pollack
Jeffrey Meyers, Dean C. Waldt
Ballard Spahr Andrews & Ingersoll
1735 Market Street, 51st Floor
Philadelphia, PA 19103

William E. Steffes
Patrick S. Garrity
Steffes, Vingiello & McKenzie, LLC
13702 Coursey Blvd., Bldg 3
Baton Rouge, LA 70817

Brian Green
Shapero & Green LLC
25101 Chagrin Blvd., Ste 220
Cleveland, OH 44122

Richard M. Kremen
Jason W. Hardman
DLA Piper Rudnick Gray Cary US LLP
6225 Smith Avenue
Baltimore, MD 21209-3600

Robert L. Humbarger
Humbarger, Zebell & Parks, P.C.
2845 Capital Avenue SW, Suite 115
Battle Creek, MI 49015

John K. Dooley, DDS
c/o Louis Graham Arceneaux
Graham, Arceneaux & Allen, LLC
601 Poydras Street, Suite 2080
New Orleans, LA 70130

Lance J. Arnold
Baldwin & Haspel
1100 Poydras Street, Suite 2200
New Orleans, LA 70163-2200

Mark S. Goldstein
Lowe, Stein, Hoffman, Allweiss &
Hauver, LLP
701 Poydras Street, Suite 3600
New Orleans, LA 70139

AIG Domestic Claims, Inc.
c/o Charles Bramham
D'Amato & Lynch
70 Pine Street
New York, NY 10270-0110

XL Specialty Insurance Company
c/o Gary V. Dixon, Pamela L. Wahl
Ross, Dixon & Bell, LLP
2001 K Street, N.W.
Washington, DC 20006-1040

John M. Landis
Stone Pigman Walther Wittmann LLC
546 Carondelet Street
New Orleans, LA 70130-3588

David T. Thuma
Jacobvitz, Thuma & Walker
500 Marquette Ave.N.W., Ste 650
Albuquerque, NM 87102

Robert H. Rosenbaum
M. Evan Meyers
Meyers, Rodbell & Rosenbaum, PA
6801 Kenilworth Ave., Suite 400
Riverdale Park, MD 20737-1385

Leon J. Reymond, Jr.,
Philip K. Jones, Jr., Carey L. Menasco
Liskow & Lewis, APLC
701 Poydras Street, Suite 5000
New Orleans, LA 70139

John T. Piggins
Miller Johnson
250 Monroe Ave., NW, Suite 800
P.O. Box 306
Grand Rapids, MI 49501-0306

Xerion Capital Partners LLP
Attn: Daniel J. Arbess
450 Park Avenue, 27th Floor
New York, NY 10022

Robotti & Company, Inc.
Attn: Christopher Sansone
52 Vanderbilt Avenue, Suite 401
New York, NY 10017

Carmen H. Lonstein
Bell Boyd & Lloyd, LLC
70 West Madison Street, Suite 3100
Chicago, IL 60602-4207

Richard W. Martinez
Richard W. Martinez, APLC
8641 United Plaza Blvd., Suite 200
Baton Rouge, LA 70809

Benjamin H. Hathaway
Brown McCarroll, L.L.P.
111 Congress Avenue, Suite 1400
Austin, TX 78701

Amy J. Swedberg
Maslon Edelman Borman & Brand LLP
90 South Seventh Street, Ste 3300
Minneapolis, MN 55402

Thomas J. Wratkowski
Northcourt Commons Retail, LLC
523 South Eighth Street
Minneapolis, MN 55404-1078

Wm. Lyman Belnap
Belnap, Curtis, Williams & Purnell
P.O. Box 7685
Boise, ID 83707

Claude C. Lightfoot, Jr.
3500 N. Causeway Blvd., Suite 450
Metairie, LA 70002

Marguerite K. Kingsmill,
Thomas Henican, Christy Bergeron
Kingsmill Riess, LLC
201 St. Charles Ave., Suite 3300
New Orleans, LA 70170-3300

Adrian J. Coztanza, DDS
48 Newhall Street
Revere, MA 02151

Matt E. Beal
Lowndes Drosdick Doster Kantor Reed
215 North Eola Drive, P.O. Box 2809
Orlando, FL 32802

Robin B. Cheatham
Adams & Reese
701 Poydras Street, Suite 4500
New Orleans, LA 70130

John C. Anderson
Anderson Firm, LLC
8461 United Plaza Blvd., Suite 200
Baton Rouge, LA 70809

Dennis M. Laborde
Richard L. Houghton, III
2200 Energy Centre, 1100 Poydras St
New Orleans, LA 70163-2200

Joel T. Marker
McKay, Burton & Thurman
170 South Main, Suite 800
Salt Lake City, UT 84101

Heather D. Dawson, Mark A. Kelley
Kitchens Kelley Gaynes, P.C.
Suite 900, 11 Piedmont Center
3495 Piedmont Road, NE
Atlanta, GA 30305

Raymond P. Ladouceur
Ladouceur & Ladouceur, LLC
4330 Dumaine Street
New Orleans, LA 70119

Dr. Ronald A. Eichel
Children's Dental Center of Atlanta
4536 Chamblee Dunwoody Road
Suite 211
Atlanta, GA 30338

NightWatch Capital Management
Attn: Paul Burgon
3311 N. University Avenue, Suite 200
Provo, UT 84604

Charles Stewart, P.A.
7900 Morning Lane
Fort Worth, TX 76123

Jerome W. Cook, Paul W. Linehan
Erin K. Walsh
McDonald Hopkins Co., LPA
600 Superior Avenue, East, Sute 2100
Cleveland, OH 44114-2653

Christopher S. Bowman
Montgomery Barnett
3300 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

Maura Z. Pelleteri, Matt J. Farley
Charles B. Long
Krebs, Farley & Pelleteri, P.L.L.C.
400 Poydras Street, Suite 2500
New Orleans, LA 70130

Bruce A. Cranner
Michael H. Pinkerton
Frlot Partridge, L.C.
1100 Poydras Street, Suite 3600
New Orleans, LA 70163-3600

Iron Mountain Information Mgmt
c/o Frank F. McGinn
Bartlett Hackett Feinberg P.C.
155 Federal Street, 9th Floor
Boston, MA 02110

Leon Friedberg
Carlile Patchen & Murphy LLP
366 East Broad Street
Columbus, OH 43215

E. Brian Davis
Two Paragon Centre
6040 Dutchmans Lane, Suite 220
Louisville, KY 40205-3305

Ophelia Nash, Snr. Credit Analyst
Paymentech, L.P.
1601 Elm Street, Suite 700
Dallas, TX 75201

Trish D. Lazich
Ulmer & Berne LLP
Skylight Office Tower
1660 West 2nd Street, Suite 1100
Cleveland, OH 44113-1448

Edward F. LeBreton, III
Jon W. Wise, Robert M. Boyce, Jr.
Fowler, Rodriguez & Chalos, LLP
400 Poydras Street, 30th Floor
New Orleans, LA 70130

Nicola M. Bajalia
Bajalia Law Firm
1810 Ashley Street, Suite 2
P.O. Box 5163
Valdosta, GA 31603-5163

David C. McMillin
Watson, McMillin & Harrison, LLP
P.O. Box 14115
Monroe, LA 71207-4415

Paul Douglas Stewart, Jr.
Milling Benson Woodward L.L.P.
321 St. Joseph Street
Baton Rouge, LA 70802

Margaret C. Lumsden
Unti & Lumsden LLP
302 Jefferson Street, Suite 200
Raleigh, North Carolina 27605

Jeffrey L. Oakes
Orrill, Cordell & Beary, L.L.C.
1010 Common Street, Suite 3100
New Orleans, LA 70112