

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION
Civil Action No. 4:08-cv-00137-JHM-ERG

FORBA HOLDING, LLC)	
k/n/a Church Street Health Management, LLC)	
)	
Plaintiff(s))	
)	
v.)	
)	
DEBBIE HAGAN,)	
)	
Defendant(s))	

Memorandum in Support of Defendant's Reply to Plaintiff's Motion For Sanctions and Motion to Squash and Dismiss

STATEMENT OF FACTS

The Plaintiff, FORBA Holding, LLC is now known as Church Street Health Management, LLC (CSHM). FORBA Holdings, LLC changed its name to Church Street Health Management after reaching a settlement with the Department of Justice. The Plaintiff, CSHM, agreed to pay the United States and participating states \$24 million, plus interest, to resolve allegations that it caused bills to be submitted to state Medicaid programs for medically unnecessary dental services performed on children insured by Medicaid, which is funded jointly by the federal and state governments. CSHM was further forced to enter into a sixty-six (66) page, five (5) year, Quality of Care Corporate Integrity Agreement¹ designed to prevent similar unlawful conduct from occurring in the future. Of the \$24 million in settlement Kentucky received \$124,000. In his statement dated January 20, 2010 Assistant Attorney

¹ Tony West, Assistant Attorney General Statement January 20, 2010 <http://www.justice.gov/opa/pr/2010/January/10-civ-052.html>

General stated, "Illegal conduct like this endangers a child's well-being, distorts the judgments of health care professionals, and puts corporate profits ahead of patient safety." The Justice Department's Civil Division and the U.S. Attorneys' Offices for the District of Maryland, the Western District of Virginia, the District of South Carolina, and the District of Colorado handled these cases. The Civil Division led the nationwide investigation, which was conducted by the Office of Inspector General for the Department of Health and Human Services, the Federal Bureau of Investigation, and the National Association of Medicaid Fraud Control Units.

In addition CSHM paid the state of New York another \$2.3 million to settle the same but separate charges of Medicaid fraud and substandard overtreatment of under-privileged children in that state and there to, entered into a Corporate Integrity Agreement² with the New York Office of Inspector General.

The investigation took place during the time the Plaintiff brought civil charges against Defendant, Ms. Hagan, for Misappropriation of Trade Secrets, Copy Right Infringement and Defamation. Which are typical allegations corporations use to silence their critics referred to as a Strategic Lawsuit Against Public Participation (S.L.A.P.P.)³

² NY Settlement Agreement <http://www.casewatch.org/civil/forba/federal/settlement.pdf>

³ <http://www.thefirstamendment.org/antislappresourcecenter.html>

CSHM is currently involved in more than seventy (70) **lawsuits** across several states including New York, New Mexico, Oklahoma, Ohio, Tennessee and Indiana. The lawsuits range from assault and malpractice to insurance fraud, discrimination and wrongful termination.

ABOUT CHURCH STREET HEALTH MANAGEMENT, LLC
KENTUCKY ORGANIZATION NUMBER 0674614

According to documents on file with the Kentucky Secretary of State, CSHM was formed on September 28, 2007. The **Managing Members of CSHM** as of July 17, 2011 are as follows: Dr. Steve Adair; Bret Bero, **American Capital Corporation**; Scott A. Buschmann, **Arcapita Investment**; Stockton Croft, **Arcapita Investment**; Charles L. Griffith, **Arcapita Investment**; Susan B. Kasser, **Carlyle Group**; Douglas Kelly, **American Capital**; Michael G. Lindley, **Small Smiles Holding, LLC**; William C. Miller, Jr., **Arcapita Investment**; Alfred Joseph Smith, **Small Smiles Holding, LLC**. Prior to July 17, 2011, when Dr. Adair was added as a member, no dentist was a member or officer of CSHM. (emphasis added)

Officers of CSHM as listed with documents on file with the Kentucky Secretary of State are as follows:

Michael G. Lindley, Chairman and Chief Financial Officer; Rodney Cawood, Executive Vice President and Chief Financial Officer; Alfred Joseph Smith, President, Chief Operating Officer and Secretary, along with others at CSHM are all former owners and officers of Keystone Marion LLC and Keystone Education and Youth Services LLC of the Keystone Group of children homes which were charged by the Department of Justice in March 2010 with Medicaid

fraud⁴ and accused of abusive treatment of children, much the same as Church Street Health Management. Timothy J. Heaphy, United States Attorney for the Western District of Virginia said "We will not sit idly by and allow healthcare providers to take advantage of troubled children in order to feed their own desire for wealth. The Medicaid system was designed to help the most vulnerable among us, not to line the pockets of fraudsters." ⁵

Still the same individuals were in charge of another youth home formerly known as the Chad Youth Enhancement Center⁶ located in north western Tennessee, where two youths have died, at least one while under the direction of the same group of business men. DHS official Stephen Rosenberg wrote to Chad. "The investigation could not determine any pattern for the use of illegal physical restraints," Rosenberg wrote. "However, the investigation did validate the allegations that some residents were being harshly and improperly restrained." In March 2005, a man called the Philadelphia child-abuse hotline with a warning: His coworkers were using "improper and illegal" force against youngsters sent to the Chad Youth Enhancement Center, which prompted DHS to investigate.

Todd R. Cruse, whose Declaration is mentioned throughout the Motion for Sanctions [Docket-40] is CSHM Senior Vice President of Development.

⁴ <http://www.justice.gov/opa/pr/2010/March/10-civ-219.html>

⁵ <http://www.justice.gov/opa/pr/2010/March/10-civ-219.html>

⁶ <http://www.dlactn.org/news-events/61-latest-news/82-chad-youth-enhancement-center-limited-public-report.html>

THE LAWS UNDER WHICH CSHM OPERATES

Dentist's agreements with "management companies" should not compromise the fundamental public purpose of the state's Dental Practice Act (DPA), which is ensuring that citizens have access to high quality dental care that is owned, controlled, and supervised by licensed and professional dentists with demonstrated clinical skills and who are accountable for their dental treatment decisions. As well, all support staff such as Dental Hygienist and Dental Assistant are to work at the direction of a legally licensed and legally practicing dentist with a legitimate dental practice.

Fee-Splitting - The Supreme Court substantially broadened that concept in the case of **Vine Street Clinic v Healthlink, Inc.**⁷ In that case, the Court ruled that it is illegal for physicians to share a percentage of their medical professional fees with anyone other than physicians with whom they practice (either in the same practice group or on a division of responsibility basis). This prohibition applies not only to payments to other physicians for a referral but also to percentage payments to anyone for any purpose, including payments for management and other services to the practice. However, CSHM does violates this with every employee and contract it makes with the "owner dentists".

In Kentucky CSHM owns, operates, and controls all aspects of the practice of dentistry which is illegal. Including taking 100% of the profits of dental practices they claim not to own but only manage. Instead of the dentist hiring CSHM and paying CSHM a "management fee" in some

⁷ *Vine Street Clinic v. Healthlink, Inc.* 856 NE2d 422 (Ill. S. Ct. 2006)

form, CSHM retains all the profits, pays all the expenses and the dentists received a pay check from or under the direction of CSHM at a rate of pay determined by CSHM.

The majority of the characters with authority at CSHM from the CEO down involved in the decision making of operation of their dental centers do not have a dental background whatsoever. It is just recently a regional manager who holds a current dental license in each state under his control was promoted to Executive Vice President as a "layer of insulation" between the operations of CSHM and its President, Alfred J. Smith.

As with most other states, a dentist must own and operate a dental practice. CSHM skirts this law by paying dentists an "administrative fee" to put their name on the Public Service Corporation documents filed at the Secretary of State's office. After which, these dentists are referred to as "owner dentists".

CSHM'S KENTUCKY OPERATIONS

CSHM claims to "manage" Small Smiles of Louisville, PSC -Organization Number 0662918 located at 3438 Taylor Boulevard Louisville, KY 40215 502-366-4442

According to documents on file at the Kentucky Secretary of State Small Smiles of Louisville, PSC formed April 4, 2007 and uses the following assumed names: Small Smiles Dental Centers

of Louisville; Small Smiles Dental Clinic; Small Smiles Dental Clinic of Louisville. Documents show as of June 21, 2011 the shareholders and officers of Small Smiles of Louisville are as follows:

Incorporator, Jodi Kuhn, DDS; President - Jodi Kuhn, DDS; Secretary, William Nash, DDS; Director, Jodi Kuhn, DDS; Director, William Nash, DDS; Shareholder, Jodi Kuhn, DDS. Jodi B. Kuhn, DDS holds a current dental license in the state of Kentucky, number 8162. The address listed on Jodi Kuhn's dental license is: Small Smiles of Cincinnati, 1860 Seymour Avenue, Cincinnati, Ohio 45237, phone number 513-841-1000. Her Kentucky license was issued July 23, 2004. William Nash, DDS does not hold a Kentucky Dental License.

KENTUCKY DENTAL PRACTICE ACT 313.000

According to KRS 313.010(10) a dentist is a "person."⁸

KRS 313.010(11) The Practice of Dentistry means the evaluation, diagnosis, prevention or surgical and other measures provided by a dentist.⁹

KRS 313.060(2) states any person shall practice under his or her own name.¹⁰

⁸ KRS 313.010 (10) "Dentist" means any person who has graduated from a Commission on Dental Accreditation (CODA) accredited dental school and has been conferred with the degree of "Doctor of Medical Dentistry" (D.M.D.) or "Doctor of Dental Surgery" (D.D.S.);

⁹ KRS 313.010(11) "Dentistry" means the evaluation, diagnosis, prevention, or surgical, nonsurgical, or related treatment of diseases, disorders, or conditions of the oral cavity, maxillofacial area, or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of his or her education, training, and experience and in accordance with the ethics of the profession and applicable law. Any person shall be regarded as "practicing dentistry" who, for a fee, salary, or other reward paid, or to be paid either to himself or herself, or to another person, performs or advertises to perform, dental operations of any kind, including the whitening of natural or manufactured teeth, or who diagnoses or treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who diagnoses or treats disorders, or deficiencies of the oral cavity and adjacent associated structures, or who takes impressions of the human teeth or jaws to be used directly in the fabrication of any intraoral appliance, or shall construct, supply, reproduce or repair any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except upon the written laboratory procedure work order of a licensed dentist and constructed upon or by the use of casts or models made from an impression taken by a licensed dentist, or who shall advertise, offer, sell, or deliver any such substitute or the services rendered in the construction, reproduction, supply, or repair thereof to any person other than a licensed dentist, or who places or adjusts such substitute in the oral cavity of another, or who uses the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or title in connection with his or her name, which in any way represents him or her as being engaged in the practice of dentistry;

¹⁰ KRS 313.060 (2) Any person practicing or offering to practice dentistry or dental surgery shall practice under his or her own name or the name of a deceased or incapacitated dentist for whom the person practicing dentistry has contracted to perform continuing operations.

KRS 313.060(3) no person shall conduct a dental practice in their name unless he or she personally performs services as a dentist in such office.¹¹

In a Board opinion dated December 1998, the Board concluded; *"a group of individuals who wish to own a dental practice may not do so as a PLLC without running afoul of KRS 313.240. The dentists may practice in their own name of a personal service corporation established under KRS 274"*.¹²

A "Qualified Person" to own a Professional Service Corporations is defined in KRS 274.005(4) must be eligible under Chapter 274.000 to own shares issued by the PSC.^{13 14} Further the services rendered under this provision must do so through officers, employees or agents licensed to perform said professional service.¹⁵

KRS 274.990 states violators of any portion of KRS 274.000 could face \$1000 and up to one year in jail or both.¹⁶

As well if a PSC is convicted of crimes under KRS 506.010, 506.030, 506.040, 521.020, or 521.050 they could be restricted from doing business in Kentucky for 5 years for the first offense

¹¹ KRS 313.060 (3) No person shall conduct a dental office in his or her name nor advertise his or her name in connection with any dental office unless he or she personally performs services as a dentist or dental surgeon in such office or personally supervises such services as are performed in such office during a portion of the time such office is operated by him or her only, and shall not use his or her name in connection with that of any other dentist, except as provided for deceased or incapacitated dentists in subsection (4) of this section.

¹² KRS 274.005 (2) "Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which, prior to the passage of this chapter and by reason of law or a professional code of ethics, could not be performed by a corporation. The personal services which come within the provisions of this chapter are the personal services rendered by but not limited to certified public accountants, public accountants, chiropractors, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropractists, architects, veterinarians, optometrists, and attorneys-at-law;

¹³ KRS 274.005(4) "Qualified person" means a natural person, partnership, limited liability company, or professional service corporation which is eligible under this chapter to own shares issued by a professional service corporation;

¹⁴ 274.027 Qualifications of officers and members of board -- Voting.

(1) Not less than one-half (1/2) of the directors of a professional service corporation and all the officers other than the secretary and the treasurer shall be qualified persons with respect to the corporation.

(2) Those members of the board of directors of a professional service corporation not qualified within the meaning of KRS 274.015 shall abstain from voting on measures before the board which deal exclusively with the art of the professional service or services rendered as opposed to measures relating to the general business operation of the corporation.

¹⁵ 274.045 Persons authorized to render service.

No professional service corporation provided for in this chapter may render professional services except through officers, employees and agents who are duly licensed or otherwise legally authorized to render such professional services within this state. This provision shall not be interpreted to include in the term "employee" as used in this chapter, clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required.

¹⁶ 274.990 Penalty. Any person who fails or refuses to do any act or perform any duty required of him by this chapter, or who causes or permits a false statement to be included in the articles of incorporation of any professional service corporation, shall be fined not more than one thousand dollars (\$1,000) or imprisoned for a period of not more than one (1) year, or both.

and 10 years for the second offense in addition to the penalties imposed for acts described in said statutes.¹⁷

Dr. Jodi Kuhn does not practice dentistry in Kentucky as required by KRS 313.060, she does not see patients whatsoever in the state of Kentucky. By examining the documents on file with the Kentucky Secretary of State it does not appear Dr. Jodi Kuhn signed any of the documents on file with the Kentucky Secretary of State's office. Their signatures appear rubber stamped. This same scenario takes place in all other states in which CSHM claims to simply manage dental center operations.

CSHM does not take outside clients, which further raises the question as to how is this company simply a management company for hire for the sole purpose of running day to day operations for dentists sought out this company for its services. (emphasis added) Arcapita Bank B.S.C located in Bahrain printed in its portfolio that in 2006 it paid \$435 million dollars for FORBA Holding, LLC. Currently their portfolio lists them owning CSHM.

Headquartered in Nashville, Tennessee, Church Street Health Management is the leading dental practice management company that exclusively focuses on serving the needs of children eligible for state paid dental care benefits.

¹⁷ 274.991 Additional penalties for violation of KRS 506.010, 506.030, 506.040, 521.020, or 521.050.

(1) If a domestic professional service corporation is convicted of a violation of KRS 506.010, 506.030, 506.040, 521.020, or 521.050, or if an officer, employee, or agent of the corporation violates any of those sections under circumstances which bring corporate liability under KRS 502.050(1)(b), the court shall order that the charter of the professional service corporation be suspended for a period of not more than five (5) years for a first offense, ten (10) years for a second offense, and permanently for a third or subsequent offense.

(2) If a foreign professional service corporation is convicted of violating any section specified in subsection (1) of this section, or if an officer, employee, or agent of the corporation violates any of those sections under circumstances which bring corporate liability under KRS 502.050(1)(b), the court shall order that the professional service corporation not be permitted to do business in Kentucky for the appropriate period specified in subsection (1) of this section.

(3) The penalties specified in this section shall be in addition to any other penalty specified by law for the commission of the offenses listed in subsection (1) of this section.

Church Street Health Management's affiliated dental practices provide dental procedures including X-rays, the administration of tooth sealants, tooth extractions, fillings, crowns and general teeth cleanings.¹⁸

CSHM dodges direct inquiry as to their involvement by using the term "affiliated".

CSHM continues to violate the Corporate Integrity Agreement signed with the Office of Inspector General., including paying the employees in a manner that would cause overtreatment and false billing – Collections Based Contracts for dentists and they reestablished the monetary bonus program based on revenue. This is in direct violation of the Corporate Integrity Agreement. On page fourteen (14) section(e) of the CIA it states:

e. Measures designed to promote adherence to the compliance and quality of care standards set forth in the applicable statutes, regulations, Federal health care program and state dental board requirements, AAPD guidelines, and the CIA, by including such adherence as a significant factor in determining the compensation to Covered Persons. These Policies and Procedures shall be designed to ensure that financial incentives do not motivate such individuals to engage in improper conduct, or provide excessive or substandard services or items.

The Office Manager (OM) is appointed to be the "compliance liaison", defined in the CIA to be the person who is to report violations and adverse events to the Compliance Officer within the company. Where the Compliance Officer directs the incidents to the Chief Dental Officer and other non-licensed executives where a determination is made as to whether the adverse even should be self-reported to the Monitor overseeing the company's compliance with the CIA. A bonus based on generated revenue and lack of "adverse events" reported, given to the very

¹⁸ http://www.arcapita.com/all_investments/companies/churchstreet.html

person who is appointed to report adverse events is a major conflict of interest putting public health and safety .

CASE HISTORY

Defendant is the grandmother of 9 and became aware of the misdeeds of CSHM in the fall of 2007 after one of her grandchildren experienced the horrific treatment of being papoose for dental treatment by a dentist in Madisonville, Kentucky.

When defendant searched for information of this torturous treatment of children for non-emergency dental treatment, she found there had been an industry created by corporations performing these torturous acts on under-privileged children living in poor neighborhood and communities in order bilk taxpayer out of millions of dollars in the name of serving the underserved.

Defendant found this to be outrageous and contemptuous and started a weblog (blog) to gather everything she could find out about these corrupt corporations disguising themselves as dental management companies. The blog became a depository of sorts where she could put any and all information she found and make it available to others in hopes it would facilitate regulatory agencies or news organization with exposing and bringing to an abrupt halt to these criminal acts, which it did. Ms. Hagan has received many thank you letters from parents of patients, government agencies and many dentists praising her for her dedication, courage and focus on

this disgusting industry which otherwise went unreported. Sadly many parents do not hear about the dentistry scam until after their child has suffered the physical and mental abuse. However, they want their story told and to be validated as having been a victim, while others refuse to admit the abuse out of shame and humility.

CSHM was a top offender. Even though Defendant's focus appears to be more focused on CSHM and their string of Small Smiles Dental Centers, she tracks and posts information about the illegal and inhumane behavior of all of these "dental mills", which they are commonly referred, who put the most vulnerable of our citizen's physical and mental health and well being and great risk. The use of the papoose board in order to increase "production" and cut costs as well as the "creative dentistry" being uncovered and reported by parents was and is unacceptable to most American's when they learn of these tactics. She found she could not idly set by knowing this was happening to thousands of children every day while state professional boards various other professional associations appeared to be condoning it by their silence and inaction. Ms. Hagan felt it unacceptable to be a part of a society that would allow this to go unchecked and felt someone had to speak of these atrocities.

She further discovered these companies were bringing dentists from foreign countries on H-1B work visas essentially holding them prisoner to work in the "chop shop". Forcing them to treat patients under the direction of non-licensed employees and at below acceptable standards or have their H-1B visas pulled where they have but 2 weeks to return to their home country. Several

have admitted few companies sponsor H-1B visas so they take what they can get in order to come to this great country, but after they are put into the clinical setting they realize they cannot practice their profession as taught, rather are required to rush treatment and perform higher reimbursing treatments than they feel is needed.

Numerous dentists have come forward saying they are embarrassed and ashamed at what they have done or allowed to happen while under the employment of CSHM. After they leave they appear to need someone to hear what happened so that they may move on with their lives and the lives of their families. Many of the stories sound much like an abused spouse who stays with her abuser. Many are also afraid of having a blemish on their professional record or being sanctioned by their state professional licensing board.

Defendant felt those who support this unlawful criminal practice of medicine and this perverted dental treatment on the America's most vulnerable, the children people, and those who worked government public healthcare programs in a manner that is detrimental to society should be held accountable to the fullest extent of the law and remaining silent to such crimes against humanity makes her as guilty as the corporations. Defendant said, "God will not let me remain silent and be part of the cover-up".

After almost a year of research and blog posts Thor Urness, attorney for Church Street Health Management (CSHM), arrived on Defendant Hagan's doorstep at 7:00pm on Friday night, November 14, 2008. At the time, it was pitch dark and Defendant was eating supper with her family and enjoying her first granddaughter, born just 2 months prior. Plaintiff's Attorney was a large, intimidating man and had a large thick envelope full of papers in his hand. He asked whether she knew of "Dentist the Menace," which she replied to truthfully, that she did. His demeanor made her felt like she was being arrested. He appeared agitated and stated he had been to court that day and the judge would not allow him file the Complaint or Temporary Injunction Ex Parte and it had taken him an extremely long time to locate the correct Debbie Hagan. In fact the name and address on the original Compliant is incorrect.

Plaintiff's Attorney handed her the papers, which included a summons and the Verified Complaint. He went into a spiel describing how his client wanted her to take off some very specific items including documents and links from her weblog and how there was a court hearing set for that following Tuesday, November 18th, leaving Defendant 1 day to secure counsel, Monday November 17, 2008. Defendant informed him that she had no problem with taking down the items listed.

Prior to Plaintiff's Attorney's visit, Defendant had not heard once from FORBA/CSHM requesting that she pull documents or links from her site. Plaintiff's Attorney emailed Defendant both Saturday and Sunday, November 15th and 16th. His email accused that she hadn't taken down the cited materials. Defendant replied honestly that she understood paragraph (b) in the

complaint in which it states "preserve all evidence... and not to engage in any spoliation of evidence" meant that she was to leave all items intact and as they stood until a hearing or court date were set.

After realizing her misinterpretation, Defendant removed the items immediately. Continuing the email conversation, Defendant asked Plaintiff's Attorney on Sunday, November 16, 2008 to send an electronic copy of the Consent Injunction by email so she could review its terms after she received the following email from Plaintiff's Attorney:

From: "Urness, Thor Y." <TUrness@boultcummings.com>
To: Debbie Hagan <cckaddie@yahoo.com>
Sent: Sunday, November 16, 2008 1 1:41:AM
Subject: FORBA Holdings, LLC v. Hagan

Ms. Hagan:

The immediate relief we are seeking is for you to take down or otherwise disable the public's ability to obtain internal documents of our client from your sites. As to the part of our motion about you not destroying evidence, that means not to delete any information on your computers, as opposed to altering your blogs/sites such that they continue to make available FORBA's internal (and copyrighted) documents. If this is not clear, please let me know.

We will continue to monitor your sites to see if you voluntarily take the actions we seek by court order, but in the absence of your written consent to the relief we are seeking in the form of a consent injunction, we have no alternative but to proceed with the relief we are seeking at the hearing on Tuesday. In fact, even if you so agree (which we encourage), we will need to see Judge McKinley since he has ordered that there be a hearing. Your agreement to a consent injunction in the form of order attached to our motion would not resolve the balance of the case as to the defamatory statements made throughout your site, but would

narrow the issues in the case and thereby save your, our client's, our and the Court's time and taxpayer expense. I would be happy to send you Consent Injunction for your review if you are willing to proceed in the manner you suggest, which we could submit to the Court tomorrow. Please let me know if you would like to proceed in this manner.

Thor Y. Urness

Plaintiff's Attorney responded Monday morning, the 17th, with a copy of the Consent Injunction and Defendant looked over the document. Immediately Defendant noticed things that she wanted changed and emailed Plaintiff's Attorney to convey her thoughts.

Plaintiff's Attorney replied simply that he didn't think his client would agree to her terms. 20 minutes later, Plaintiff's Attorney replied back and confirmed, "As I suspected my client didn't agree." Defendant is nearly certain he didn't actually call his clients. It was between 12:00 noon and 12:30PM, lunch time.

As Plaintiff's Attorney had stated, the Consent Injunction was delivered to Defendant on Monday, November 17th. Since Defendant had no problem taking down the requested items, and because she didn't think the matter required a hearing, she signed the Consent Injunction. Defendant understood that the Consent Injunction was merely a formal order to remove the previously cited materials from her site, *not* that it prevented her from posting certain materials in the future. Had she realized the Consent Injunction took away all of her 1st Amendment rights and now as it appears would limit her reporting illegal activity to the Office of Inspector General, she would have never signed the Consent Injunction.

After filing the Consent Injunction Compliance Statement on November 21, 2008, Defendant thought the issue was over. She had fulfilled what she believed were the requirements set forth in the Consent Injunction made at the request of Plaintiff's Attorney. Otherwise there would be no need to file the requested Compliance Statement. On November 25, 2008, 4 days after Defendant filed her Consent Injunction Compliance Statement and prior to Defendant's deadline for filing her Answer to the Verified Complaint, Plaintiff's Attorney sent her 19 pages of Interrogatories and Requests for Documents knowingly and purposely violating Federal Rules of Civil Procedure 26(f). They did this for no other reason than to bury Defendant in a mountain of legal papers in hopes it would deter and silence her or better yet, cause them to win their case by default.

A diligent search of legal representation by an attorney experienced in the complicated 1st Amendment issue at hand produced no results. Defendant had no choice but to represent herself, Pro Se and the same situation continues.

Defendant filed an Answer to the Complaint on December 15, 2008. At that point, Defendant was still unaware that her agreement the Consent Injunction severely limited what she could post on her Dentist the Menace weblog or file in her Answer [Docket-17].

Defendant complied with CSHM's interrogatories and kept up with pleading deadlines as best she could. Dedicated to this issue and refusing to allow herself to be bullied into silence on the illegal activities and unacceptable treatment of children, she spent the next several months, even during the Thanksgiving and Christmas holiday season researching the law and meeting pleading deadline. She was forced to spend hundreds of hours that should have been spent with family and worship reading Federal Rules of Civil Procedure and finding examples of legal pleadings to use in her defense.

In February 2009, Plaintiff's Attorney contacted Defendant and wanted her to meet with him at a Small Smiles Dental Center allegedly to convince her that their establishment had improved and was a respectable business. Defendant was happy to meet with him and the date was scheduled 2-3 weeks in advance.

Defendant hadn't heard anything from Plaintiff's Attorney for a while, so two days before the planned meeting date she sent an inquiry to him inquiring whether they were "still on."

Plaintiff's Attorney responded with a resounding no, explaining that Defendant continued to put up provocative postings on her blog. Defendant found Plaintiff's Attorney comment slightly humorous—"what did he expect"? She had never told him she would cease all postings on her blog.

The parties were ordered to conduct a phone conference by April 2, 2009. On Monday March 30, 2009 Defendant had not heard from Plaintiff's Attorney and emailed him:

From: Debbie Hagan
Sent: Monday, March 30, 2009 1:16 PM
To: Urness, Thor Y.
Subject: Order for Meeting-FORBA v. Hagan
Thor:

Aren't we Ordered to have a meeting by Thursday? I'm available Wednesday at 1:00pm.

Debbie Hagan

Approximately 45 minutes later Defendant received the following email from Plaintiff's Attorney:

From: "Urness, Thor Y." <TUrness@BABC.COM>
To: Debbie Hagan <cckaddie@yahoo.com>
Sent: Monday, March 30, 2009 1:54:00 PM
Subject: RE: Order for Meeting-FORBA v. Hagan

We need to have a meeting, which we can do by phone. How much are you willing to pay towards FORBA's attorney's fees? That seems to be the only issue left in the case.

From: Debbie Hagan
Sent: Monday, March 30, 2009 1:16 PM
To: Urness, Thor Y.
Subject: Order for Meeting-FORBA v. Hagan Thor:

Since attorney fees are the only issue left in the case as you pointed out and you have plead your reasoning to the Judge on why FORBA deserves those fees, and the Judge didn't agree FORBA deserved them at all, I think I will have to go with the Judge's recommendation and say: "Nothing".

Debbie Hagan

During the phone conference ordered by the court between Defendant and Plaintiff's Attorney, on April 1, 2009 Defendant's Attorney stated his clients were willing to "let" her continue what she was doing but they needed something from her. The request was \$60,000.00 in attorney

fees. Plaintiff's Attorney suggested Defendant "think it over" and contact him again on Monday April 6, 2009. Defendant thought it over and decided agreeing to send Plaintiff's Attorney \$60,000.00 they requested was outrageous and impossible. If she had that kind of money she would not be trying to handle this Pro Se.

Throughout the rest of 2009 and until August of 2010 Defendant had no communication with the plaintiffs. Then on August 9, 2010, she received the following email from Plaintiff's Attorney.

From: "Urness, Thor Y." <TUrness@BABC.COM>
To: Debbie Hagan <cckaddie@yahoo.com>
Sent: Monday, August 9, 2010 2:02:00 PM
Subject: RE: Order for Meeting-FORBA v. Hagan
Ms. Hagan,
Please see the attached letter.
Thor Y. Urness

The email attachment was a letter from Plaintiff's Attorney demanding the removal of entries on her blog. Defendant did not believe anything violated the Consent Injunction but removed them anyway.

In September 2010, Defendant received an email from Todd Cruse, Senior Vice President of CSHM. Todd wanted to have "coffee and conversation" with Plaintiff. Defendant thought that was fine, so they met halfway at a Starbucks in Bowling Green, Kentucky. Todd explained that the lawyer fees were getting expensive and wanted to negotiate some understanding. Ultimately, it was clear Todd just wanted Defendant to go away. When Todd asked Defendant what her "goal" was she told Todd she wanted the company to stop abusing children by strapping them in

papoose boards. Todd said the papoose boards were used much less now that CSHM had bought the clinics from the DeRose family. I pointed out they were still used way too much and he replied "it couldn't be fixed over night". (CSHM bought the clinics in 2006) Todd said if they see a "spike" in the use of the papoose board he immediately checked to see the circumstances which contradicts what people had told Defendant, which was they were being reprimanded when they failed to document higher number of times the papoose board is used. Todd gave Defendant kudos for her crusade and being so creative. Todd went on to tell Defendant how her blog didn't really "carry much weight with parents and patients" and that "regulatory agencies didn't give anything on it much weight". Defendant told Todd employees and parents are many times afraid to come forward and I end up getting an anonymous email about a situation. He said there was an email address for people to write with complaints and it went straight to him. The "coffee and conversation" lasted nearly an hour ending cordially with Todd hoping he would not read about this meeting tomorrow on Defendant's blog. Defendant promised that would not happen, and has kept to her word. During the "coffee and conversation" Todd told Defendant about the future expansion of services of CSHM, including the sedation program where they hoped to begin to sedate more children instead of strapping them down. This alarmed Defendant since 13 children had died in the past 18 months due to sedation dentistry.

In early December 2010, Todd wrote a series of emails to Defendant asking her to take certain materials down from her site. Like she had in the past, she complied with his every request. Their conversations soon became almost friendly, with each other wishing the other a Happy

Holidays, and their signatures shortened to first names and/or just initials. In one of Todd's latest emails, dated December 2010, he told Debbie, "over the next month we will look the site over and if we have any problems, we'll let you know." After January 2011 Defendant believed if there were any blog posts the plaintiff took issue with, she would have been notified. Every time Defendant was asked to take something down, she either complied or would white out the objected content. She never argued or raised issue with their requests. As far as she was concerned Todd had set the standard for handling such future matters in September when he met with her and said he wanted to take the attorneys out of the equation.

In July 2011, the plaintiffs filed the Motion for Sanctions. Defendant was outraged at many of the materials from her website that they pointed to as violations of the Injunction. For the most part, she believed they were irrelevant or out of scope of the Consent Injunction.

As for posting internal, confidential, or copyrighted materials, Defendant proclaims that she has no idea what documents or any conveyed information CSHM constitutes as such. Defendant receives information from numerous anonymous people, including frightened former CSHM employees who want to blow the whistle on the continued criminal activities and cover-up of the company but are too frightened and intimidated by management and co-workers to speak with out.

What constitutes "confidential" or "internal" CSHM staff only knows, Defendant maintains, she had not seen any documents that have a classification of being "confidential" nor is it stated in

any emails.

Defendant has taken down any blog posts mentioned in the Motion for Sanctions [Docket-40] that she thought might be considered in violation of the Consent Injunction in the eyes of CSHM. CSHM listed in their Motion for Sanctions several items, some having nothing to do with the Consent Injunction but rather things they felt were “inflammatory”. Defendant questions as to why CSHM has not taken offense to being referred to as a criminal organization and crooks.

CONCLUSION

Defendant continues to receive communication from patients and employees with heartbreaking stories of abuse and pleas for help. For example in April she received a communication from what she was told is a current employee saying “the children’s lives are in your hands”. This communication explained the substandard treatment children were receiving and falsification for charts and reports including medications used or not used on patients.

The federal and state government tries to help poor children by funding such programs as CHIPS. But corruption like this finds the weak link in the system and uses it in a way to drill our taxpayers.

When WE, United States Citizens, are forced to accept the unacceptable due to loopholes in our administrative system; in time, it leaves us with little choice. Remaining silent or exercising our 1st Amendment rights to restore justice that is owed to 100,000’nd of children, mothers, fathers,

and love ones and shine the spot light on the mockery of our citizens, law, and taxation system is simply unacceptable.

In essence, I do not consider any legitimacy in the allegations of the plaintiff's which are based on the fundamental public purpose of deceit, fraud, corruption, and an illegal burden to the taxpayers, patients, creditors, insurance companies, and the state! Certainly, elements of a highly illegal and criminal interstate racketeering organization should not be granted the right to take legal action against a Law-Abiding Citizen whose effort is in the SOLE interest of public health. Protection to faceless unlicensed profiteers practicing medicine without a license surely do not carry more weight than the protection of the vulnerable and whistleblowers' whose only goal is to expose the corruption and cut the head off the snake. If our current professional boards were astutely aware of these atrocities our current state laws could be diligently enforced.

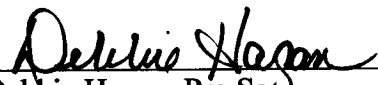
Indeed the Government has opened its eyes in time about this condemned practice to systematically torture low income children for a hefty award by the taxpayer, but no one has yet even began to start questioning the legality of the entity, nor will mount the corruption, bribery, extortion, false claims, unlicensed practice, and the sky is the limit for how many offenses they are guilty of thus far.

This matter should be continued but in a criminal court. But here we are, questioning exposed information of a "mafia type organization," as it somehow breaching their rights to trade secrets

and internal information. How can the Consent Injunction the defendant felt pressured into signing be binding when executed by a company that is clearly, without question, illegal practicing dentistry without a license. If this is the case, there should be a deafening sigh of relief among other criminals from drugs dealers to crack house operators to know the secrets as to how they perpetuate their crimes is protected and they should have everyone they do "business" with sign a Confidentiality Agreement.

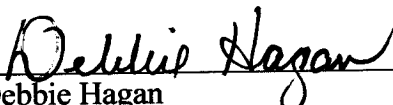
It must be asked why a multimillion dollar corporation backed by Private Equity firms is trying to silence a grandmother of 9 living in western Kentucky.

Date: 9-12-11


Debbie Hagan, Pro Se
4453 Strickland Drive
Owensboro, Kentucky 42301
cckaddie@yahoo.com
270-316-0743

CERTIFICATE OF SERVICE

I, Debbie Hagan, hereby certify that a copy of the above Objection to Plaintiff's Motion for Sanctions and Motion to Dismiss was served on counsel for Church Street Health Management, LLC by first class mail postage prepaid at Bradley, Arant, Boult Cummings, LLP 1600 Division St. Suite 700, Nashville, Tennessee 37203 on Monday September 12, 2011.


Debbie Hagan
4453 Strickland Drive
Owensboro, KY 42301