

Dental Implant Company Pays Competitor \$2M

Employee raids, trade secret thefts were root causes of lawsuit

By **CHRISTIAN NOLAN**

Nobel Biocare USA LLC v. Keystone Dental Inc., et al: An upstart company in the dental implant market that was accused of stealing 18 employees from the industry leader has agreed to pay \$2 million in damages as part of a settlement agreement.

Nobel Biocare, which claims to be the world's leader in dental implants (an artificial tooth root put into the jaw to hold a replacement tooth or bridge), filed the lawsuit last year in Waterbury Superior Court.

The lawsuit claims that Keystone Dental, headquartered in Burlington, Mass., and founded in March 2006, was specifically targeting Nobel Biocare's sales and marketing employees.

According to Nobel Biocare's lawsuit, Keystone Dental, in an attempt to gain an unfair competitive advantage, deliberately aided and abetted those 18 employees in breaching their non-competition and confidentiality agreements with Nobel Biocare. The lawsuit said that Keystone Dental targeted those employees because they represented a cross-section of Nobel Biocare's business and sales force. The suit alleged that luring the employees was part of Keystone Dental's declared goal "to become the market leading, U.S.-based dental implant company."

Biocare has offices throughout the world but only one U.S. location, in Yorba Linda, Calif.

The lawsuit was filed in Waterbury Superior Court, before Judge Barry Stevens, because one of the former Nobel Biocare sales employees used to live and work in Connecticut.

Attorney Anthony R. Minchella, of Minchella & Associates in Middlebury, was the lone Connecticut lawyer on Nobel Biocare's team of attorneys that also included lawyers from the Miami office of Morgan, Lewis & Bockius. Michael Sheetz, of Nixon Peabody LLC in Boston, served as lead counsel for Keystone Dental.

The lawsuit further alleged that Keystone Dental and some of its employees failed to return con-



Middlebury attorney Anthony R. Minchella said the \$2 million settlement was the largest he can recall in a case involving a company hiring employees away from a competitor.

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fidential and proprietary information belonging to Nobel Biocare. The claim also accused the employees of unlawfully disclosing Nobel Biocare's trade secrets to Keystone Dental so that Keystone could develop its own competitive products. Additionally, the former Nobel Biocare employees were accused of inducing customers to terminate their contractual or business relationships with Nobel Biocare.

"By hiring [the Biocare employees] away, knowing they had non-compete, non-solicitation agreements, it was an unfair trade practice," said Minchella.

The lawsuit alleged violations of the Uniform Trade Secrets Act, Connecticut's Unfair Trade Practices Act and sought injunctive relief and compensatory and punitive damages.

After a year of battles in the courtroom, the two sides went to mediation and reached a settlement agreement in early September.

According to Minchella, Keystone agreed to pay \$2 million and is required to arrange for the collection and destruction of Nobel Biocare confidential and proprietary information.

Also as part of the settlement, both companies agreed to not hire any current employee of the

other company for the next six months. "Nobel is very pleased with the outcome, which reflects the importance of the principles it was fighting for in the first place," said Minchella. Minchella said the \$2 million recovered by Nobel Biocare from Keystone Dental is one of the largest settlements he's ever seen in a case involving hiring employees away from another company.

Keystone Dental was also pleased with the settlement outcome.

"After intensive discovery and many motions in court, Nobel accepted a settlement for a fraction of its claimed damages with no injunction or other court order issued," said Sheetz. "And Keystone is free to employ all of the former Nobel employees without any restriction," Sheetz added.

Despite agreeing to pay Nobel Biocare \$2 million, Keystone Dental maintains the litigation "was without merit and foundation," according to a statement issued by the company on its web site.

"Importantly, and consistent with our position that Nobel Biocare's allegations were without merit, we are pleased to report that this settlement was made without any admission of wrongdoing on the part of Keystone Dental and its employees," reads Keystone Dental's statement. The statement makes no mention of the \$2 million in damages. ■

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