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* Admitted only to a bar other than that of the District of Columbia. Working under the supervision of principals of the Washington office.

** Special Legal Consultant, qualified in the People's Republic of China.

December 6, 2019

Janis B. Moriarty, DMD
President, Massachusetts Dental Society
Two Willow Street
Southborough, MA 01745

Re: MDS's False Statements

Dear Dr. Moriarty,

I write on my behalf of my client, SmileDirectClub ("SDC"). On June 5 and August 1, 2019 the Massachusetts Dental Society ("MDS") filed complaints with the Massachusetts dental board and Massachusetts Attorney General, respectively. The MDS uploaded a video entitled "DIY Dentistry: Online Orthodontics" on November 7, 2019 to YouTube, and distributed that video to its members in an e-mail blast on November 19, 2019. These communications target SDC, for example, by citing articles and litigation naming SDC and discussing mail-order companies that provide aligners, of which SDC is the most prominent. You personally signed the MDS's August 1, 2019 letter and appear in the November 7, 2019 video.

As the MDS and you are well-aware, these letters and video contain numerous false statements, including:

- Falsely asserting that SDC's model "present[s] significant risks to the health and wellbeing" of patients because (1) employees, not dentists, control a patient's care; (2) the standard of care for clear aligner therapy requires the review of an X-rays; and (3) SDC's model does not meet "ethical and professional obligation[s]."

None of these accusations is truthful: SDC's affiliated-dentists control each patient's care; the standard of care does not, as a rule, require the review of X-rays prior to prescribing clear aligner therapy; and its affiliated dentists fulfill their ethical and professional obligations.

- Falsely claiming that SDC constitutes do-it-yourself dentistry. SDC's model is not do-it-yourself, as patients are at all times under the supervision of a dentist during evaluation, diagnosis and treatment. These state-licensed dentists are 100% responsible for the clinical care of their patients during treatment using the SDC teledentistry platform, the same as they are in a traditional bricks and mortar setting.
- Claiming, without support, that SDC's partnership with CVS "appears to lack appropriate safeguards to ensure patient safety."
- Citing the ADA's citizen petition as evidence that others are concerned with SDC, without disclosing that the request for the relief sought in the petition had already been rejected by the FDA less than 35 days after it had been filed.

To knowingly makes these and other false assertions, as the MDS and you personally have done, is defamatory. MDS's conduct also raises serious concerns under antitrust and other unfair competition laws, particularly as it is a group of horizontal competitors acting in concert. It is actionable to file baseless petitions with government agencies to interfere with a competitor's business, as the MDS has done here. It is likewise actionable to make false and misleading public statements to harm competition.

SDC demands that the MDS and you personally immediately correct the record, including with MDS' members, the Massachusetts dental board, and the Massachusetts Attorney General; withdraw these baseless letters and video; and cease and desist from making further defamatory statements. Additionally, SDC requests that MDS and its board members immediately preserve and not destroy or alter any and all evidence, documents, notes, correspondence, recordings, photographs, material, tangible things, and electronically stored information, including but not limited to e-mails and text messages regarding, concerning, referencing, mentioning, and/or potentially relevant in any way to SDC or any dentist or orthodontist affiliated in any way with SDC.

SDC reserves all rights.

Sincerely,



Kathleen W. Bradish