

25CV019336-590

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO. \_\_\_\_\_

THOME & ZIMMER DDS PLLC I, DAVID  
E THOME DDS PLLC, DAVID E THOME  
DDS PLLC I, DAVID E THOME DDS  
PLL C II, DAVID E THOME DDS PLLC III,  
DAVID E THOME DDS PLLC IV, DAVID  
E THOME DDS PLLC V, DAVID E  
THOME DDS PLLC VI, DAVID E THOME  
DDS PLLC VII, DAVID E THOME DDS  
PLL C VIII, DAVID E THOME DDS PLLC  
IX, DAVID E THOME DDS PLLC X,  
THOME LOWERY & HENDRICK DDS  
PLL C, and THOME & HENDRICK DDS  
PLL C,

Plaintiffs,

v.

JAMES MCGARVEY and STONEPATH  
PEDO LLC,

Defendants,

**VERIFIED COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiffs Thome & Zimmer DDS PLLC I, David E Thome DDS PLLC, David E Thome DDS PLLC 1, David E Thome DDS PLLC II, David E Thome DDS PLLC III, David E Thome DDS PLLC IV, David E Thome DDS PLLC V, David E Thome DDS PLLC VI, David E Thome DDS PLLC VII, David E Thome DDS PLLC VIII, David E Thome DDS PLLC IX, David E Thome DDS PLLC X, Thome Lowery & Hendrick DDS PLLC, and Thome & Hendrick DDS PLLC (collectively, the “NCPD Practice Entities” or “Plaintiffs”), by and through the undersigned counsel, file this Verified Complaint against James McGarvey (“McGarvey”) and Stonepath Pedo LLC (“Stonepath,” and together with McGarvey, “Defendants”) stating as follows:

## **NATURE OF CASE**

1. This case stems from Defendants' unauthorized access to and hijacking of Plaintiffs' internet domains, and ongoing wrongful retention of Plaintiffs' cyber property without a right of possession.

2. Defendants have seized control of Plaintiffs' domains that house the websites that not only market Plaintiffs' dental services but also provide patients access to care through scheduling and messaging services.

3. Defendants at one time provided business consulting services to Plaintiffs, which is how they initially came to control the domains as the primary contact registered with the domain host. Plaintiffs terminated the independent contractor agreement governing the business consulting relationship in 2023, and have since demanded return of control of the domains, but Defendants still refuse to transfer control of the domains to their owners, Plaintiffs.

4. Instead, Defendants are improperly attempting to wield the transfer codes for the domains as a point of leverage in negotiations in the hopes that it will drive up McGarvey's buyout price for his share of ownership in a separate, unrelated company, NC Pedo Dent Leasing, that does not own the domains. McGarvey has admitted to this improper purpose in writing.

5. Plaintiffs bring this lawsuit seeking damages and injunctive relief against Defendants for (1) breach of contract, (2) civil conversion, (3) unfair and deceptive trade practices, (4) violations of the Computer Fraud and Abuse Act, and (5) violations of the Anti-Cybersquatting Consumer Protection Act.

## **PARTIES**

6. Thome & Zimmer DDS PLLC I is a North Carolina professional limited liability company with its registered office located at 221 Simpson Park Road, Shelby, NC 28150.

7. David E Thome DDS PLLC is a North Carolina professional limited liability company with its registered office located at 148 East Morgan Street, Wadesboro, North Carolina 28170.

8. David E Thome DDS PLLC 1 is a North Carolina professional limited liability company with its registered office located at 140 Mahaley Avenue, Suite B, Salisbury, NC 28144.

9. David E Thome DDS PLLC II is a North Carolina professional limited liability company with its registered office located at 202 Williamson Road, Mooresville, NC 28117.

10. David E Thome DDS PLLC III is a North Carolina professional limited liability company with its registered office located at 140 Mahaley Avenue, Suite B, Salisbury, NC 28144.

11. David E Thome DDS PLLC IV is a North Carolina professional limited liability company with its registered office located at 1209 Davie Avenue, Statesville, NC 28677.

12. David E Thome DDS PLLC V is a North Carolina professional limited liability company with its registered office located at 2301 S. Cannon Blvd, Kannapolis, NC 28083.

13. David E Thome DDS PLLC VI is a North Carolina professional limited liability company with its registered office located at 701 S. Laurel Street, #1, Lincolnton, NC 28092.

14. David E Thome DDS PLLC VII is a North Carolina professional limited liability company with its registered office located at 7206 Austin Smiles Ct, #1, Denver, NC 28037.

15. David E Thome DDS PLLC VIII is a North Carolina professional limited liability company with its registered office located at 236 Market Street, #200, Locust, NC 28097.

16. David E Thome DDS PLLC IX is a North Carolina professional limited liability company with its registered office located at 5641 Poplar Tent Road, Suite 201, Concord, NC 28027.

17. David E Thome DDS PLLC X is a North Carolina professional limited liability company with its registered office located at 7856 Village Center North, Sherrills Ford, NC 28269.

18. Thome Lowery & Hendrick DDS PLLC is a North Carolina professional limited liability company with its registered office located at 1637 College Avenue, Spindale, NC 28160.

19. Thome & Hendrick DDS PLLC is a North Carolina professional limited liability company with its registered office located at 1315 Wilkesboro Blvd, Lenoir, NC 29645.

20. Stonepath Pedo LLC is a North Carolina limited liability company with its registered office and principal place of business located at 1224 Belgrave Place, Charlotte, NC 28203.

21. James McGarvey is a resident of Charlotte, North Carolina.

22. Upon information and belief, Stonepath's sole member is Jnm II Mgmt LLC. Upon information and belief, the sole member of Jnm II Mgmt LLC is McGarvey. Therefore, upon information and belief, McGarvey is the sole and true owner of Stonepath.

### **JURISDICTION**

23. This Court has jurisdiction over this action pursuant to N.C. Gen. Stat. § 1-75.4 and N.C. Gen. Stat. § 7A-240.

24. The amount in controversy exceeds \$25,000.00, and so Superior Court is the proper division for this action pursuant to N.C. Gen. Stat. § 7A-243.

25. This case should be assigned to the North Carolina Business Court pursuant to N.C. Gen. Stat. § 7A-45.5(a)(4) and N.C. Gen. Stat. § 7A-54.5(a)(5), and Plaintiffs are filing the appropriate Notice of Designation paperwork herewith.

26. This Court has concurrent jurisdiction with federal courts over civil actions under the Computer Fraud and Abuse Act and Anti-Cybersquatting Consumer Protection Act.



27. This Court has personal jurisdiction over James McGarvey because he is a citizen of and domiciled in North Carolina, living in Mecklenburg County.

28. This Court has personal jurisdiction over Stonepath Pedo LLC because its registered and principal office is located within Mecklenburg County.

29. Venue is proper in this judicial district pursuant to N.C. Gen. Stat. §§ 1-77, 1-79, and 1-81.2 because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in Mecklenburg County.

### **FACTUAL ALLEGATIONS**

30. Plaintiffs are dental practices that collectively operate under the brand name NC PEDIATRIC DENTISTRY (collectively, the "NCPD Practice Entities"). "NC PEDIATRIC DENTISTRY" is also the registered DBA for David E Thome DDS PLLC 1, one of the NCPD Practice Entities. The NCPD Practice Entities provide dental services to thousands of young patients throughout the State of North Carolina.

31. Dr. David Thome is a well-recognized dentist in North Carolina with a majority ownership interest in each of the NCPD Practice Entities.

32. James McGarvey ("McGarvey") is not a licensed dentist and has no ownership interest in any of the NCPD Practice Entities.

#### **Plaintiffs hired McGarvey to help with business consulting tasks, including registering the Domains, on Plaintiffs' Behalf.**

33. Dating back to 2013, the NCPD Practice Entities have engaged McGarvey and Stonepath Pedo LLC ("Stonepath") as independent contractors to provide business and administrative services to the NCPD Practice Entities, including the registration and maintenance of the NCPD Practice Entities' internet domains.

34. Due to their widespread practice, the NCPD Practice Entities rely on their websites to effectively run a considerable portion of their patient-facing operations, as described further below.

35. Defendants' duties included registering and maintaining certain domains for the NCPD Practice Entities to be used for these websites and in connection with their practices ("Domains"). The registrar for the Domains is a non-party, HostGator. A true and correct copy of the list of the Domains is attached as **Exhibit A**.

36. McGarvey's administrative role in setting up the Domains is reflected in a July 1, 2013 email, where he informed a webpage designer named Chris Chamberlain, "Chris, Dr. David Thome is going to contact you with credit card info so that you can open a HostGator account for us and buy/hold ncpediatricdentistry.com." A true and correct copy of that email is attached as **Exhibit B**.

37. The NCPD Practice Entities have used their brand name and mark (the "NCPD Mark"), continuously since 2013 to advertise, offer, and provide dental services to patients in the State of North Carolina. The NCPD Practice Entities consistently and prominently display and advertise the NCPD Mark in connection with their dental services throughout North Carolina, including on their website, social media, at events, on office buildings, and on marketing materials.

38. The NCPD Practice Entities' primary domain is ncpediatricdentistry.com, which captures the NCPD Mark including their signature logo used in their offices:



Well Pediatric  
Dentistry

Denver Pediatric  
Dentistry

Dunn Pediatric  
Dentistry

Fuquay Pediatric  
Dentistry

Hickory Grove  
Pediatric Dentistry

Locust Pediatric  
Dentistry



Welcome To NC Pediatric Dentistry



39. As a result of the NCPD Practice Entities' advertising and promotion of their services using the NCPD Mark, the relevant public has come to recognize and identify the NCPD Practice Entities as the source of valuable services offered in connection with the NCPD Mark.

40. Accordingly, the NCPD Mark embodies significant customer goodwill and comprises valuable intellectual property that belongs exclusively to the NCPD Practice Entities.

41. The NCPD Practice Entities therefore have nationwide common law rights in the NCPD Mark that date back to at least 2013.

42. In October 2013, Dr. Thome and McGarvey established NC Pedo Dent Leasing (“NCPD Leasing”)—each originally owning a 47.5% interest, and each now owning a 50% interest—to facilitate certain administrative functions and procure non-clinical equipment without any markup costs to the NCPD Practice Entities. NCPD Leasing is not a dental practice entity and does not own the NCPD Mark.

43. On or about January 1, 2020, the NCPD Practice Entities entered into a service provider agreement with Defendants, which memorialized the terms through which Defendants had been and would continue to provide consulting services to the NCPD Practice Entities (the “Service Provider Agreement”). A true and correct copy of the Service Provider Agreement is attached as **Exhibit C**.

44. The NCPD Practice Entities use the Domains to operate their websites, and the websites are the central means of communication with their patients and the primary method of scheduling dental services. As such, these websites are essential to the short and long-term viability of the NCPD Practice Entities. Any modification or lapse in proper maintenance of the Domains can leave these websites non-operational. Such a malfunction can interfere with the NCPD Practice Entities’ communications with their patients and substantially affect the NCPD Practice Entities’ reputation, brand image, and public perception.

45. HostGator has provided services to the NCPD Practice Entities under an account owned by the NCPD Practice Entities but set up by Defendants pursuant to the business relationship memorialized in the Service Provider Agreement (the “NCPD HostGator Account”). When McGarvey registered the Domains on HostGator, he listed himself as the primary contact,

administrative contact, and technical contact consistent with the functions he was performing for the NCPD Practice Entities at the time as noted in the Service Provider Agreement. Without the NCPD Practice Entities' authorization or knowledge, at the time of registration, McGarvey provided his personal email address, rather than professional email address, as the point of contact for the Domains.

46. Notably, McGarvey listed NC PEDIATRIC DENTISTRY, the registered DBA of David E Thome DDS PLLC 1 (one of the NCPD Practice Entities), as the registrant of the Domains for [ncpediatricdentistry.com](http://ncpediatricdentistry.com) and [ncpedmail.com](http://ncpedmail.com). This reflected his clear understanding that the NCPD Practice Entities owned these Domains. A true and correct copy of the HostGator registrant list is attached as **Exhibit D**.<sup>1</sup>

47. Services provided by HostGator under the umbrella of the NCPD HostGator Account include registration services in connection with the Domains, as well as hosting services in which HostGator's servers host domain name software packages integral to the operation and functionality of active websites associated with the Domains.

48. Upon information and belief, HostGator's hosting of the software packages for active websites involves a substantial number of technically complex discretionary choices to be made by the owner of the websites. There are various settings and features of HostGator's hosting infrastructure that have to be selected and configured in particular ways in order to shape the functionality and user experience associated with an active website. For the active websites associated with the Domains, the NCPD Practice Entities have devoted substantial time and financial resources to analyzing the pertinent features and settings, and creating specific proprietary configurations that optimize website performance in conjunction with the hosting

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<sup>1</sup> According to HostGator, the remaining Domains that McGarvey has refused to turn over have no registrant listed. See Exhibit D. HostGator is not currently displaying any information for [cabarruspediatricdentistry.com](http://cabarruspediatricdentistry.com).

services provided by HostGator. The websites associated with the Domains are intellectual property of the NCPD Practice Entities.

49. Upon information and belief, customer management of the NCPD HostGator Account allows a person with access to review pertinent information concerning the Domains associated with the Account, add, subtract, or modify services provided by HostGator in relation to those Domains, review invoices and charges from HostGator, and make payments to HostGator for services associated with particular Domains within the Account.

**Plaintiffs Terminate the Service Provider Agreement and Subsequently Learn McGarvey Has Retained Exclusive Control of the Domains.**

50. In September 2023, the NCPD Practice Entities terminated the Service Provider Agreement due to Defendants' material and substantial failure to perform their duties and obligations thereunder. Pursuant to Section 7 of the Service Provider Agreement, upon termination of the Service Provider Agreement, Defendants were required to return to the NCPD Practice Entities all of the NCPD Practice Entities' property in Defendants' possession or control, including without limitation all confidential and proprietary information.

51. Following termination of the Service Provider Agreement, the NCPD Practice Entities continued to compensate McGarvey through a transition period, during which he continued to help with tasks such as updating the purchasing credit card information for HostGator fees.

52. For the first year following the termination of Defendants, the Domains continued to operate smoothly.

53. On or about October 22, 2024, however, the NCPD Practice Entities' websites temporarily shut down due to issues with HostGator's server.

54. Following the temporary shutdown, the NCPD Practice Entities sought to transfer the Domains from HostGator to the NCPD Practice Entities' external vendor, WEO Media Dental Marketing ("WEO Media"). It was at this time that the NCPD Practice Entities discovered that McGarvey continued to be listed as the primary user for the NCPD HostGator Account and was the only person who had access to the codes needed to transfer the Domains.

**McGarvey Initially Transfers Certain Domains Willingly, but Changes Course after Realizing Control of the Domains Provides Him Negotiating Leverage.**

55. The NCPD Practice Entities requested that McGarvey provide the codes and relinquish control over the Domains to enable the NCPD Practice Entities to transfer the Domains from HostGator to either WEO Media or the NCPD Practice Entities' IT vendor, Digital Technology Partners ("DT Partners"), ultimately deciding on DT Partners.

56. McGarvey initially agreed to transfer the Domains and began working with DT Partners to do so.

57. This reflected McGarvey's clear understanding that he had no ownership interest in the Domains either individually, through Stonepath, through his partial ownership of NCPD Leasing, or otherwise.

58. On January 28, 2025, DT Partners notified the NCPD Practice Entities that not all of the Domains had yet been transferred from HostGator because McGarvey had not sent the authorization codes needed to complete the transfers.

59. That same day, Cynthia Stokes, an employee of the NCPD Practice Entities, attempted to access the NCPD HostGator Account and asked McGarvey for a verification code sent to McGarvey's recovery email account listed under the NCPD HostGator Account.

60. McGarvey responded that a few domain transfers were in process, and he was waiting for transfer codes for other domains: "Just a quick update on my end, I looked at the host

gator domains and several say/show pending transfer with DT. I'm waiting on about five codes requested over the last week from HostGator right now as well for others." A true and correct copy of the message is attached as **Exhibit E**.

61. To date, McGarvey has transferred the following domains to the NCPD Practice Entities:

- a. caredainstitute.com
- b. caredentalassistinginstitute.com
- c. carolinalaserandoraltherapy.com
- d. carolinalaseroraltherapy.com
- e. carolinaoraltherapy.com
- f. concordkidsdental.com
- g. fuquaypediatricdentistry.com
- h. locustpediatricdentistry.com
- i. mooresvillepediatricdentistry.com
- j. ncdenverpediatricdentistry.com
- k. nctonguetieclinic.com
- l. salisburypediatricdentistry.com
- m. shelbypediatricdentist.com
- n. sherrilsfordpediatricdentistry.com
- o. statesvillepediatricdentistry.com
- p. ncpdinsurance.com
- q. ncpdengagement.com

62. On March 20, 2025, the NCPD Practice Entities contacted McGarvey again requesting that McGarvey provide the transfer codes for the remaining Domains.

63. In contrast to McGarvey's initial and correct understanding that the NCPD Practice Entities owned the Domains, McGarvey asserted—for the first time—that he was the owner of the



Domains and would not transfer them until he finalized an unrelated transaction involving the redemption of McGarvey's interest in the non-practicing entity, NCPD Leasing:

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**Re: HostGator Inquiry**

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**From** James McGarvey <jamesm@ncpediatricdentistry.com>

**Date** Fri 3/21/2025 9:34 AM

**To** Cynthia Stokes <CynthiaS@ncpediatricdentistry.com>

**Cc** Ben Pruyne <ben.pruyne@dtpartners.com>

Good morning,

I will gladly transfer the domains I purchased and own in my personal account upon completion of my transaction with NC Pedo Dent Leasing. I have requested codes today in order to send quickly as received. It takes approx. 3 days to get the code from Hostgator.

Thanks.

James

A true and correct screenshot of the email message is attached as **Exhibit F**.

64. In an improper attempt to garner leverage in the negotiations, McGarvey has seized control over the remaining Domains and has used scare tactics to influence the negotiation process. Specifically, McGarvey informed Kelly Thome, the Chief Operating and Financial Officer of the NCPD Practice Entities, that he has complete authority and power to shut down the NCPD Practice Entities' websites within twenty minutes at any given time.

65. On April 3, 2025, Kelly Thome, on behalf of the NCPD Practice Entities, first called and then sent an email to HostGator requesting that HostGator promptly remove McGarvey from the NCPD HostGator Account and designate the primary user status to Kelly Thome. A true and correct screenshot of the email message is attached as **Exhibit G**.

66. On that same day, HostGator responded to Kelly Thome's email and informed her that the NCPD Practice Entities will only be able to gain access to the NCPD HostGator Account if (1) the individual listed as the primary contact (McGarvey) grants the NCPD Practice Entities

control over the Domains, or (2) the NCPD Practice Entities obtain a court order stating that the NCPD Practice Entities are the rightful owners of the Domains and associated websites. *See* Exhibit G.

**McGarvey Changes Course Yet Again and Claims NCPD Leasing Owns Domains**

67. On April 4, 2025, counsel for the NCPD Practice Entities sent a demand letter to Defendants' counsel requesting that McGarvey return control of the seized Domains and notify HostGator that McGarvey is no longer asserting ownership, administrative control or technical control over any of the Domains. A true and correct copy of the letter is attached as **Exhibit H**.

68. The NCPD Practice Entities' and McGarvey's respective attorneys discussed McGarvey's withholding of the Domains later that day. McGarvey's counsel informed Plaintiffs' counsel that McGarvey would not be making the requested transfers of the Domains. In contrast to McGarvey's position just days before that he owned the Domains "in [his] personal account," McGarvey's counsel took the position that NCPD Leasing (the company for which parties are currently negotiating the redemption of McGarvey's ownership interest) owned the Domains.

69. Defendants refused to comply with the NCPD Practice Entities' request to return control of the Domains to the NCPD Practice Entities.

70. Defendants then doubled-down on the assertion that NCPD Leasing owned the Domains in correspondence through counsel on April 11, 2025. A true and correct copy of the letter is attached as **Exhibit I**.

71. NC PEDIATRIC DENTISTRY, the registrant on the primary Domain *ncpediatricdentistry.com*, is not a registered DBA for NCPD Leasing. It is a registered DBA for one of the NCPD Practice Entities. NCPD Leasing is not the registrant for any of the Domains.

72. Defendants further remarkably take the position in the April 11, 2025 Letter that “[i]t is undisputed that none of the at-issue domains have any impact on patient care or continuing business operations for any of the dental entities to which they are associated.” Ex. I. This is absolutely not the case. As stated above, patients are directed to the websites hosted on the Domains for, among other things, access to care through scheduling and messaging services.

73. Contrary to Defendants’ assertions, neither McGarvey nor NCPD Leasing are owners of the Domains. NCPD Leasing was not a party to the Service Provider Agreement and is not authorized to exert any control over the dental practices that comprise the NCPD Practice Entities. Defendants were independent contractors and registered and maintained the Domains on behalf of the NCPD Practice Entities pursuant to the business relationship memorialized the Service Provider Agreement. At no time did the NCPD Practice Entities relinquish ownership or control of the Domains to Defendants or to NCPD Leasing.

74. Furthermore, NCPD Leasing was not even formed until October 14, 2013, and did not have an operating agreement until June 1, 2014, both events occurring after McGarvey had reached out to set up the [ncpediatricdentistry.com](http://ncpediatricdentistry.com) Domain for David E Thome DDS PLLC 1 dba NC PEDIATRIC DENTISTRY, one of the NCPD Practice Entities, on July 1, 2013.

75. Historically, NCPD Leasing paid certain administrative expenses without markup on behalf of the NCPD Practice Entities, including domain registration and hosting fees. But NCPD Leasing did so in an administrative capacity and never as the owner of the Domains as evidenced by the fact that NCPD Leasing sought reimbursement of its expenses from each of the NCPD Practice Entities. NCPD Leasing’s practice of paying the domain registration and hosting fees and seeking reimbursement from the NCPD Practice Entities was consistent with how NCPD Leasing handled many of the other NCPD Practice Entities’ expenses as pass-through expenses

for NCPD Leasing. At no time was control of the NCPD Practices entities ever delegated to NCPD Leasing.

**Continuing Impacts of Defendants' Misconduct**

76. To date, McGarvey has refused to transfer control of the following Domains to the NCPD Practice Entities:

- a. [aftonpediatricdentistry.com](http://aftonpediatricdentistry.com)
- b. [cabarruspediatricdentistry.com](http://cabarruspediatricdentistry.com)
- c. [carolinadentalnetwork.com](http://carolinadentalnetwork.com)
- d. [dunnpediatricdentistry.com](http://dunnpediatricdentistry.com)
- e. [hickorygrovepediatricdentistry.com](http://hickorygrovepediatricdentistry.com)
- f. [ncdentalnetwork.com](http://ncdentalnetwork.com)
- g. [ncpediatricdentistry.com](http://ncpediatricdentistry.com)
- h. [ncpedmail.com](http://ncpedmail.com)
- i. [sherrillsfordpediatricdentistry.com](http://sherrillsfordpediatricdentistry.com)

77. The NCPD Practice Entities never assigned ownership of the Domains or any intellectual property to NCPD Leasing or McGarvey, nor does NCPD Leasing use the Domains or the NCPD Mark in commerce.

78. By continuing to unlawfully control the Domains and refusing to return control of the same, Defendants are in violation of Section 7 of the Service Provider Agreement, which obligates Defendants to return all of the NCPD Practice Entities' property, including proprietary and confidential information, to the NCPD Practice Entities upon termination of the Service Provider Agreement. Defendants have not complied with this provision and are therefore in breach of their legal obligations to the NCPD Practice Entities.

79. Defendants' unauthorized access and wrongful retention of the NCPD Practice Entities' property has impaired the availability of the NCPD Practice Entities' data and has prevented the NCPD Practice Entities from being able to effectively maintain the NCPD HostGator Account and the Domains, and in turn, their online business presence.

80. Defendants' breach and subsequent insinuations have created a substantial threat to the NCPD Practice Entities and their patients who depend on access to the seized Domains to communicate with their providers and schedule dental services.

81. The NCPD Practice Entities have already been, and continue to be, irreparably harmed by Defendants' domain hijacking, unauthorized access, and wrongful retention of the NCPD HostGator Account and Domains.

82. Specifically, upon information and belief, Defendants can, if they have not already, add, subtract, modify, or cancel any or all of the services provided by HostGator to the NCPD Practice Entities in relation to any of the Domains encompassed within the NCPD HostGator Account, thereby placing the NCPD Practice Entities' active websites at risk of failing or being taken down.

83. Defendants' withholding of the Domains has also prevented the NCPD Practice Entities from switching their web hosting provider as recommended by NCPD's IT vendor, DT Partners.

**COUNT I – BREACH OF CONTRACT**  
**(Defendants)**

84. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.

85. Plaintiffs and Stonepath were parties to the Service Provider Agreement dated January 1, 2020, which is a valid and binding contract.

86. Plaintiffs have complied with, and continue to comply with, all material terms of the Service Provider Agreement.

87. Section 7 of the Service Provider Agreement provides as follows:

Upon termination of this Agreement (regardless of the date, cause or manner of such termination), Provider and all of Provider's staff shall return to Client all property whatsoever of Client in or under Provider's and/or its staff's possession or control, including without limitation all confidential and proprietary information. Without limiting the foregoing, Confidential Information shall include all materials, information and ideas of Client, patient names, patient lists, patient records, patient information, operation methods and information, marketing and pricing information and materials, internal publications and memoranda, other matters considered confidential by Client which are not otherwise publicly available and any information, in any form, that is a trade secret within the meaning of N.C. Gen. Stat. §§ 66-152 – 66-157. The Confidential Information shall be and shall remain at all times the property of Client.

88. In September 2023, Plaintiffs terminated the Service Provider Agreement with Defendants.

89. Plaintiffs are the rightful owner of the Domains affiliated with the NCPD HostGator Account.

90. Plaintiffs understand that Defendants continue to possess control and access to Plaintiffs' property.

91. Defendants breached their obligations under the Service Provider Agreement by seizing complete control of the Domains and refusing to relinquish all control of Plaintiffs' property to Plaintiffs following termination and Plaintiffs' subsequent demand that the property be returned.

92. As a result of Defendants' breach of the Service Provider Agreement, Plaintiffs have suffered damages.

93. In addition to their own employees' time, Plaintiffs have been forced to incur expenses through outside vendors and outside counsel in an effort to detect and correct

Defendants' unauthorized access to the Domains. Plaintiffs have incurred substantial damages due to the harm or loss that Defendants caused and are in the position to further cause due to Defendants' unauthorized possession of the NCPD HostGator Account and Domains.

94. In addition to harm and loss compensable with a monetary award, Defendants' breach continues to cause Plaintiffs irreparable harm for which Plaintiffs have no adequate remedy at law, as acknowledged by Defendants in Paragraph 13 of the Service Provider Agreement. Therefore, as a result of Defendants' refusal to relinquish control over the seized Domains, Plaintiffs are entitled to specific performance of Defendants' obligation to return control of the Domains to Plaintiffs pursuant to Section 7 of the Service Provider Agreement.

#### **COUNT II – CONVERSION**

95. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.

96. Plaintiffs have registered and purchased internet domains in connection with Plaintiffs' dental practices and are the true owners of the Domains within the NCPD HostGator Account.

97. Without authorization from Plaintiffs, Defendants seized control and converted the internet Domains affiliated with the NCPD HostGator Account and owned by Plaintiffs.

98. Plaintiffs have expressly revoked any access Defendants previously had to the Domains under the now-terminated Service Provider Agreement.

99. Plaintiffs have made numerous requests and demands to Defendants to return control to the Domains affiliated with the NCPD HostGator Account to Plaintiffs, the rightful owners.

100. Despite Plaintiffs' demands for the return of its property, Defendants refused to return and continue to retain complete control over Plaintiffs' property without a right of possession.

101. Defendants retain wrongful dominion or control over Plaintiffs' property without a valid right of possession to the detriment of Plaintiffs, the actual owners of the property.

102. Defendants' wrongful assumption of authority over the property deprives Plaintiffs of the use of the property in question. Defendants' unauthorized access and wrongful retention of Plaintiffs' property has impaired the availability of certain data and has prevented Plaintiffs' from effectively maintaining the Domains, and in turn, their online business presence.

103. As a result of Defendants' conversion of Plaintiffs' property, Plaintiffs have suffered damages.

104. In addition to devoting their own employees' time, Plaintiffs have been forced to incur additional expenses in outside vendors and counsel to detect and correct Defendants' unauthorized access to the Domains. Plaintiffs have incurred substantial damages due to the harm or loss that Defendants caused and is in the position to further cause due to Defendants' unauthorized access.

105. In addition to harm and loss compensable with a monetary award, Defendants' conduct has caused and continues to cause Plaintiffs irreparable harm, for which Plaintiffs have no adequate remedy at law. Plaintiffs will continue to suffer irreparable harm until an injunction is issued against Defendants.

### **COUNT III – UNFAIR AND DECEPTIVE TRADE PRACTICES**

106. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.



107. Defendants knew that they did not have any rights over the Domains or to withhold them from Plaintiffs.

108. Defendants initially cooperated in transferring certain domains to Plaintiffs, but then reversed course and refused to turn over the rest. McGarvey's initial refusal was predicated on his personal ownership of the Domains. McGarvey then changed his position again when he, through his counsel, asserted that the Domains were owned by NCPD Leasing.

109. Defendants' true reason for withholding the Domains is to gain leverage in the negotiations over the redemption of McGarvey's interest in NCPD Leasing.

110. The wrongful actions of Defendants constitute unfair and deceptive acts under N.C. Gen. Stat. § 75-1.1.

111. Defendants' conduct was in or affecting commerce in North Carolina.

112. Defendants' actions were unfair and deceptive.

113. Defendants' actions directly and proximately caused Plaintiffs damages in an amount to be determined at trial.

114. Defendants' continuing acts of unfair and deceptive trade practices entitle Plaintiffs to injunctive relief, treble damages, and/or attorney fees pursuant to N.C. Gen. Stat §§ 75.1-1(a), 75-16, and 75-16.1.

#### **COUNT IV – VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT**

115. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.

116. Plaintiffs seek damages and injunctive relief pursuant to the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. § 1030.

117. Although the thrust of the CFAA is criminal, the statute also provides a civil remedy under 18 U.S.C. § 1030(g), which states that “Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief.”

118. The term “computer” under the CFAA means any device for processing or storing data (excluding an automated typewriter, portable handheld calculator, or other similar device). *See* 18 U.S.C. § 1030(e)(1). Sections 1030(a)(1)-(7) of the CFAA define various types of prohibited conduct that constitute violations of the statute. A key element of these statutory violations is that the prohibited conduct must have taken place in relation to a “protected computer.”

119. A “protected computer” includes any computer used in interstate commerce. *See* 18 U.S.C. § 1030(e)(2). The NCPD HostGator Account is part of an online domain name registration management platform. Online websites, databases, and interactive platforms and interfaces of this sort, when used in interstate commerce, are “protected computers” under the CFAA.

120. Defendants’ conduct as alleged above implicates Defendants in multiple violations of the CFAA.

121. Section 1030(a)(2)(C) prohibits intentionally accessing a protected computer, without authorization or by exceeding authorized access, and thereby obtaining information from a protected computer. Defendants violated this section by 1) accessing the NCPD HostGator Account and unlawfully seizing control of the Domains after Plaintiffs revoked Defendants’ permission to access the Domains and 2) refusing to relinquish control of the Domains after Plaintiffs requested Defendants do so. Although Defendants previously had authorization to

access the NCPD HostGator Account and view information associated with the Domains under the Service Provider Agreement, Defendants knew they did not have authorization to continue to exert control over the Domains and obtain information on the NCPD HostGator Account after Plaintiffs terminated the Service Provider Agreement in September 2023, or, at latest, following discussions regarding transfer of the Domains in March 2025. The Service Provider Agreement clearly states that Defendants were required to turn over all property owned by Plaintiffs upon termination of the Service Provider Agreement. By seizing the NCPD HostGator Account and maintaining control over the HostGator Account, Defendants continue to exceed authorization to access information in violation of Section 1030(a)(2)(C).

122. Section 1030(a)(4) prohibits knowingly and with intent to defraud accessing a protected computer, without authorization or by exceeding authorized access, to obtain anything of value or further a fraud. Defendants violated this section by seizing control and refusing to relinquish control of the NCPD HostGator Account and the Domains, and suggesting to HostGator that Defendants own the NCPD HostGator Account and the Domains. Defendants perpetrated this scheme to obtain the value associated with access to and use of the websites associated with the Domains. Defendants' fraudulent scheme is also designed to obtain leverage against Plaintiffs. In response to demands from Plaintiffs to restore their access and control over the Domains, Defendants stated that they did not intend to relinquish control until McGarvey and Dr. Thome finalized a buy-out of McGarvey's interest in NCPD Leasing, a separate entity that does not own the Domains.

123. Defendants' conduct in the foregoing paragraph also violates Section 1030(a)(7), which prohibits intentionally extorting anything of value by transmitting information that demands a thing of value in relation to a protected computer, where such damage was caused to facilitate

the extortion. “Damage” is defined under Section 1030(e)(8) of the CFAA as “any impairment to the integrity or availability of data, a program, a system, or information[.]” Defendants’ actions as alleged herein have impaired the integrity and availability of the Domains associated with the NCPD HostGator Account.

124. Sections 1030(a)(5)(A)-(C) prohibit knowingly causing the transmission of information or a command that intentionally causes damage without authorization to a protected computer (Section 1030(a)(5)(A)), as well as intentionally accessing a protected computer and recklessly causing damage (Section 1030(a)(5)(B)), or intentionally accessing a protected computer without authorization, and as a result of such conduct, causing damage and loss (Section 1030(a)(5)(C)). Defendants’ conduct as described above violates Sections 1030(a)(5)(A), (a)(5)(B) and (a)(5)(C). The only additional element under Section 1030(a)(5)(C) is the requirement of “loss”, defined broadly under Section 1030(e)(11) as encompassing “any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, restoring the damaged data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.”

125. Plaintiffs have incurred losses as a direct result of Defendants’ unlawful actions, a figure that grows with each passing day. These losses include attorneys’ fees, time spent, and fees paid to employees and third-party vendors seeking to access the NCPD HostGator Account and Domains.

126. Additionally, Defendants’ actions have prevented Plaintiffs from transferring the Domains to a new web hosting vendor to ensure the websites’ continued operation.

127. In addition to harm and loss compensable with a monetary award, Defendants' violations of the CFAA have caused and continue to cause Plaintiffs irreparable harm, for which Plaintiffs have no adequate remedy at law. Plaintiffs will continue to suffer irreparable harm until an injunction is issued against Defendants.

**COUNT V – CYBERSQUATTING UNDER THE ANTI-CYBERSQUATTING  
CONSUMER PROTECTION ACT**

128. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.

129. Plaintiffs are the rightful owners of the NCPD HostGator Account and the Domains, that ultimately control the websites that display the NCPD Mark, which is distinctive pursuant to 15 U.S.C. § 1125(d)(1)(A)(ii)(I), or in the alternative, famous at the time the Plaintiffs registered the domain pursuant to 15 U.S.C. § 1125(d)(1)(A)(ii)(II).

130. Defendants unlawfully seized absolute control of the NCPD HostGator Account and the Domains that ultimately control the websites that feature the NCPD Mark, with a bad faith intent to profit from the goodwill, reputation, and consumer recognition of the NCPD Mark.

131. Specifically, Defendants are using the Domains as a bargaining chip to attempt to maximize the amount of money McGarvey receives from the redemption of his ownership interest in NCPD Leasing.

132. Defendants were, and remain, fully aware of the Plaintiffs' rights in the NCPD Mark prior to seizing control of the Domains and affiliated websites, which features NCPD's Mark.

133. Defendants' actions violate the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), Lanham Act § 43(d), and was and is done willfully, in bad faith, and without any legitimate business purpose.

134. Defendants' willful and intentional violation of the Anti-Cybersquatting Consumer Protection Act entitles Plaintiffs to statutory damages of up to \$900,000 (\$100,000 per domain that Defendants have refused to transfer) pursuant to the Lanham Act, 15 U.S.C. § 1117(d).

135. Defendants' willful and intentional violation of the Anti-Cybersquatting Consumer Protection Act entitles Plaintiffs to their reasonable attorneys' fees under 15 U.S.C. § 1117(a).

136. As a direct and proximate result of the Defendants' actions, Plaintiffs have suffered and will continue to suffer irreparable harm if Defendants' Conduct is not enjoined.

#### **COUNT VI – INJUNCTION**

137. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.

138. This is an action for injunctive relief against Defendants under CFAA, 18 U.S.C. §1030(g), and ACPA, 15 U.S.C. §8131(2).

139. Plaintiffs have already been, and continue to be, irreparably harmed by Defendants' domain hijacking, unauthorized access, and wrongful retention of the NCPD HostGator Account and Plaintiffs' Domains.

140. Defendants' control of the Domains that have not yet been transferred and NCPD HostGator Account is nearly absolute.

141. Specifically, Defendants can add, subtract, modify, or cancel any or all of the services provided by HostGator to Plaintiffs in relation to any of the Domains encompassed within the account, thereby placing Plaintiffs' active websites at risk of failing or being taken down.

142. Defendants can also potentially delete any pre-existing authorized payment methods associated with the NCPD HostGator Account, thereby rendering it impossible to use those methods to pay for HostGator for its services. If Plaintiffs cannot pay HostGator or take

control of the Domains, there is a risk that the registered Domains will be canceled and will allow another third-party the opportunity to purchase Plaintiffs' Domains, furthering the conversion.

143. Loss of Plaintiffs' Domains thwarts Plaintiffs' ability to communicate with their patients and the public. It also inhibits Plaintiffs' patients from making appointments to obtain dental services and emergency aid. Defendants' actions, unless remedied through injunctive relief, are likely to cause irreparable harm to NCPD Practice Entities' reputation as a reliable, patient-friendly, and accessible care provider.

144. Further, in obtaining unauthorized access to the NCPD HostGator Account and the Domains, Defendants have obtained information from this computer system, which includes but is not limited to Plaintiffs' proprietary settings, its confidential account information, its intellectual property, and various other information maintained in the HostGator server.

145. Plaintiffs have been forced to expend scores of manhours of their employees, outside vendors and outside counsel in an effort to detect and correct Defendants' unauthorized control over the Domains. Plaintiffs have incurred damages due to the harm or loss that Defendants caused and are in the position to further cause due to Defendants' unauthorized access to the NCPD HostGator Account and the Domains.

146. Defendants have impaired the availability of Plaintiffs' data and prevented Plaintiffs from effectively maintaining the NCPD HostGator Account and accessing the Domains, and in turn, their online business presence.

147. Defendants must be enjoined from retaining Plaintiffs' property and restricting and/or preventing Plaintiffs from using or accessing the Domains. Defendants must also be enjoined from interfering with Plaintiffs' business by adding, subtracting, modifying, or canceling

any or all of the services provided by HostGator to Plaintiffs in relation to any of the Domains encompassed within the NCPD HostGator Account.

148. Defendants must be further required to transfer control of the Domains to Plaintiffs, their rightful owner.

**COUNT VII – TEMPORARY RESTRAINING ORDER AND PRELIMINARY  
INJUNCTION**

149. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.

150. This is an action for a Temporary Restraining Order and Preliminary Injunction pursuant to N.C. R. Civ. P. 65.

151. Plaintiffs have already been, and continue to be, irreparably harmed by Defendants' domain hijacking, unauthorized access, and wrongful retention of the NCPD HostGator Account and Domains.

152. Now that Defendants have wrongfully gained complete and unauthorized access to the NCPD HostGator Account, Defendants' control is nearly absolute.

153. Specifically, Defendants can add, subtract, modify, or cancel any or all of the services provided by HostGator to Plaintiffs in relation to any of the Domains encompassed within the account, thereby placing Plaintiffs' active websites at risk of failing or being taken down.

154. Defendants can also potentially delete any pre-existing authorized payment methods associated with the NCPD HostGator Account, thereby rendering it impossible to use those methods to pay for HostGator for its services. If Plaintiffs cannot pay HostGator or take control of the Domains, there is a risk that the registered Domains will be canceled and will allow another third-party the opportunity to purchase NCPD's Domains, furthering the conversion.



155. Loss of the Domains thwarts Plaintiffs' ability to communicate with their patients and the public. It also prevents Plaintiffs' patients from making appointments to obtain dental services and emergency aid.

156. Thus, in obtaining unauthorized access to the NCPD HostGator Account and the Domains, Defendants have obtained information from this computer system, which includes but is not limited to Plaintiffs' proprietary settings, its confidential account information, its intellectual property, and various other information maintained in the HostGator server.

157. Plaintiffs have been forced to expend scores of manhours of their employees, outside vendors and outside counsel in an effort to detect and correct Defendants' unauthorized control over the Domains. Plaintiffs have incurred substantial damages due to the harm or loss that Defendants caused and is in the position to further cause due to Defendants' unauthorized access to the NCPD HostGator Account and the Domains.

158. Defendants have impaired the availability of NCPD's data and prevented NCPD from effectively maintaining the NCPD HostGator Account and accessing the Domains, and in turn, their online business presence.

159. Defendants must be immediately enjoined from retaining control of Plaintiffs' property and restricting and/or preventing Plaintiffs from using or accessing the Domains.

160. Defendants must also be enjoined from interfering with Plaintiffs' business by adding, subtracting, modifying, or canceling any or all of the services provided by HostGator to Plaintiffs in relation to any of the Domains encompassed within the NCPD HostGator Account.

161. Defendants must be further required to transfer control of the Domains to Plaintiffs, their rightful owner.

162. Plaintiffs are now suffering irreparable harm due to Defendants' actions, the Temporary Restraining Order and Preliminary Injunction are necessary to protect NCPD's rights during this litigation.

163. Unless the Court enters the Preliminary Injunction order described above, NCPD will continue to suffer immediate and irreparable injury, loss, and damage.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request this Court:

- A. Enter judgment in favor of Plaintiffs and against Defendants on all counts;
- B. Award Plaintiffs compensatory damages against each Defendant in an amount to be determined at trial;
- C. Award Plaintiffs statutory damages pursuant to 18 U.S.C. §1030(g) and 15 U.S.C. § 1117(d) in an amount to be determined at trial;
- D. Enter a temporary and permanent order, pursuant to 18 U.S.C §1030(g), N.C. R. Civ. P. 65 as follows:
  - i. Declaring Plaintiffs are the rightful owner of the NCPD HostGator Account;
  - ii. Declaring Plaintiffs are the rightful registrant and registered name holder of the Domains;
  - iii. Ordering that the NCPD HostGator Account, and all Domains, be immediately transferred to Plaintiffs;
  - iv. Enjoining Defendants from retaining Plaintiffs' property and restricting or preventing Plaintiffs from using or accessing its NCPD HostGator Account and Domains;

- v. Enjoining Defendants from adding, subtracting, modifying, or canceling any or all of the services provided by HostGator to Plaintiffs in relation to any of the Domains encompassed within the NCPD HostGator Account.
- vi. Directing Defendants to immediately cease and desist from accessing or utilizing the NCPD HostGator Account;
- vii. Order Defendants to immediately preserve all documentary and physical evidence in each of their care, custody or control, including all electronic devices that may contain any evidence of Plaintiffs' converted property, including the login credentials;

E. Enter a temporary and permanent order pursuant to 18 U.S.C §1030(g) and N.C. R. Civ. P. 65 enjoining Defendants from directly or indirectly accessing, deleting, copying, printing, transmitting or disclosing any of Plaintiffs' information, communications or documents contained, embedded or stored within the NCPD HostGator Account.

F. Award Plaintiffs reasonable attorneys' fees and costs pursuant to N.C. Gen. Stat. § 75-16.1, or, alternatively, 15 U.S.C. § 1117(a).

G. Award Plaintiffs treble damages pursuant to N.C. Gen. Stat. § 75-16.

H. Award Plaintiffs legal interest on all sums awarded; and

I. Award Plaintiffs such other and further relief as the Court deems just and proper

DATED this 16<sup>th</sup> day of April, 2025.

/s/ Locke Beatty  
Locke Beatty  
N.C. Bar No. 38020  
Tyra D. Pearson  
N.C. Bar No. 54951  
MCGUIREWOODS LLP  
201 N. Tryon St, Suite 3000  
Charlotte, NC 28202

Phone: (704) 343-2349  
[lbeatty@mcguirewoods.com](mailto:lbeatty@mcguirewoods.com)  
[TPearson@mcguirewoods.com](mailto:TPearson@mcguirewoods.com)

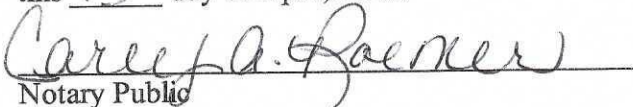
**VERIFICATION**

I, Dr. David E. Thome, in my capacity as owner and agent of Plaintiffs Thome & Zimmer DDS PLLC I, David E Thome DDS PLLC, David E Thome DDS PLLC 1, David E Thome DDS PLLC II, David E Thome DDS PLLC III, David E Thome DDS PLLC IV, David E Thome DDS PLLC V, David E Thome DDS PLLC VI, David E Thome DDS PLLC VII, David E Thome DDS PLLC VIII, David E Thome DDS PLLC IX, David E Thome DDS PLLC X, Thome Lowery & Hendrick DDS PLLC, and Thome & Hendrick DDS PLLC, being first duly sworn, deposes and says as follows:

That I have read the foregoing *VERIFIED COMPLAINT* and know the contents thereof, and that the same are true to my own knowledge, except as to matters and things therein stated upon information and belief, and that as to those I believe them to be true. Furthermore, I am authorized by Plaintiffs Thome & Zimmer DDS PLLC I, David E Thome DDS PLLC, David E Thome DDS PLLC 1, David E Thome DDS PLLC II, David E Thome DDS PLLC III, David E Thome DDS PLLC IV, David E Thome DDS PLLC V, David E Thome DDS PLLC VI, David E Thome DDS PLLC VII, David E Thome DDS PLLC VIII, David E Thome DDS PLLC IX, David E Thome DDS PLLC X, Thome Lowery & Hendrick DDS PLLC, and Thome & Hendrick DDS PLLC to execute this Verification.

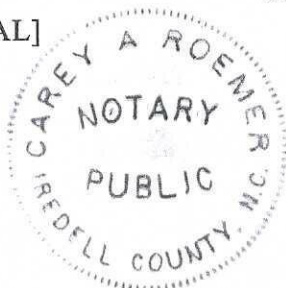
  
Dr. David E. Thome

SWORN TO AND SUBSCRIBED BEFORE ME,  
this 15 day of April, 2025.

  
Notary Public

My Commission Expires: \_\_\_\_\_ My Commission Expires  
03/17/2027

[NOTARY SEAL]



# EXHIBIT A

<a href="http://aftonpediatricdentistry.com">aftonpediatricdentistry.com</a>
<a href="http://cabarruspediatricdentistry.com">cabarruspediatricdentistry.com</a>
<a href="http://caredainstitute.com">caredainstitute.com</a>
<a href="http://caredentalassistinginstitute.com">caredentalassistinginstitute.com</a>
<a href="http://carolinadentalnetwork.com">carolinadentalnetwork.com</a>
<a href="http://carolinalaserandoraltherapy.com">carolinalaserandoraltherapy.com</a>
<a href="http://carolinalaseroraltherapy.com">carolinalaseroraltherapy.com</a>
<a href="http://carolinaoraltherapy.com">carolinaoraltherapy.com</a>
<a href="http://concordkidsdental.com">concordkidsdental.com</a>
<a href="http://dunnpediatricdentistry.com">dunnpediatricdentistry.com</a>
<a href="http://fuquaypediatricdentistry.com">fuquaypediatricdentistry.com</a>
<a href="http://hickorygrovepediatricdentistry.com">hickorygrovepediatricdentistry.com</a>
<a href="http://locustpediatricdentistry.com">locustpediatricdentistry.com</a>
<a href="http://moorevillepediatricdentistry.com">moorevillepediatricdentistry.com</a>
<a href="http://ncdentalnetwork.com">ncdentalnetwork.com</a>
<a href="http://ncdenverpediatricdentistry.com">ncdenverpediatricdentistry.com</a>
<a href="http://ncpediatricdentistry.com">ncpediatricdentistry.com</a>
<a href="http://ncpedmail.com">ncpedmail.com</a>
<a href="http://nctonguetieclinic.com">nctonguetieclinic.com</a>
<a href="http://salisburypediatricdentistry.com">salisburypediatricdentistry.com</a>
<a href="http://shelbypediatricdentist.com">shelbypediatricdentist.com</a>
<a href="http://sherrillsfordpediatricdentistry.com">sherrillsfordpediatricdentistry.com</a>
<a href="http://sherrillsfordpediatricdentistry.com">sherrillsfordpediatricdentistry.com</a>
<a href="http://statesvillepediatricdentistry.com">statesvillepediatricdentistry.com</a>
<a href="http://ncpdinsurance.com">ncpdinsurance.com</a>
<a href="http://ncpdengagement.com">ncpdengagement.com</a>

# EXHIBIT B



**From:** "James McGarvey" <jmcgarvey@stonepathco.com>  
**Subject:** NC Pediatric Dentistry  
**Date:** July 1, 2013 at 5:46:32 PM EDT  
**To:** <chris@modrydesign.com>  
**Cc:** "David Thome" <david.thome.dds@gmail.com>

Chris, Dr. David Thome is going to contact you with credit card info so that you can open a hostgator account for us and buy/hold [ncpediatricdentistry.com](http://ncpediatricdentistry.com). Chris, please choose the account option that makes the most sense for us and will meet our email and website hosting needs. My sense is that it's the "Baby" and monthly, we can buy a full few years when we get the site going.

David, Chris' contact info is:

**Chris Wooten** • Phone: 704.408.8852  
[www.modrydesign.com](http://www.modrydesign.com) • 1212 E. 35th Street, Charlotte NC 28205

Thanks,  
James

**James N. McGarvey**  
Managing Partner  
The Stonepath Companies  
Office: (704) 966-6680  
Fax: (866) 668-6201  
Mobile: (917) 597-4193  
[jmcgarvey@stonepathco.com](mailto:jmcgarvey@stonepathco.com)  
[www.stonepathco.com](http://www.stonepathco.com)

# EXHIBIT C

## SERVICE PROVIDER AGREEMENT

**THIS SERVICE PROVIDER AGREEMENT** (this “**Agreement**”), is made this 1st day of January, 2020 (the “**Effective Date**”), between **THOME & ZIMMER DDS PLLC I**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC**, a North Carolina professional limited liability company **DAVID E THOME DDS PLLC 1**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC II**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC III**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC IV**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC V**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC VI**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC VII**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC VIII**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC IX**, a North Carolina professional limited liability company, **DAVID E THOME DDS PLLC X**, a North Carolina professional limited liability company, **THOME LOWERY & HENDRICK DDS PLLC**, a North Carolina professional limited liability company, **THOME & HENDRICK DDS PLLC**, a North Carolina professional limited liability company (together with their respective successors, assigns and subsidiaries, if any, are collectively referenced herein as the “**Client**”), and **STONEPATH PEDO LLC**, a North Carolina limited liability company (“**Provider**”).

### STATEMENT OF PURPOSE

**WHEREAS**, Client operates various pediatric dentistry practices within the State of North Carolina (the “**Practices**”);

**WHEREAS**, Pursuant to the terms of this Agreement, Client desires to engage Provider to perform consulting services, as more fully defined below, for the Practices for the period set forth herein and to make provision for payment of reasonable and proper compensation to Provider for such services, all in the manner and subject to the terms and conditions hereinafter set forth. Provider desires to perform the duties incident to such engagement for Client upon the terms and conditions hereinafter set forth.

### STATEMENT OF AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Duties.**

(a) **Duties.** Client hereby engages Provider, and Provider hereby accepts such engagement, to perform consulting services (“**Consulting**”), which shall consist of providing finance and accounting advisory services and procuring companies and individuals to perform collections, accounting, human resources, marketing, legal services, and general advice relating to the administrative aspects of a dentistry practice. Provider represents and warrants to Client that it has appropriate skills and capabilities reasonably expected of it to perform the Consulting. Provider will devote its professional and business time and best efforts to the performance of its duties for Client.

(b) Provider Control of Services. Provider, with reasonable input from Client, shall be entitled to control, direct, and supervise the duties to be performed and the manner in which the Consulting is performed provided that in the exercise thereof Provider shall not violate professional standards or other rules and/or regulations promulgated by Client.

(c) Client Provision of Office, Supplies. Client will furnish Provider with appropriate office space, supplies, equipment, staff support, and other facilities and services appropriate and adequate for the Consulting. Client will manage equipment and supply needs. Provider shall not be authorized to order equipment or supplies without the written consent of Client, but will be asked for input regarding any supplies and equipment needed.

(d) Frequency of Services. Client anticipates that it will engage Provider to provide services on an as needed basis, but neither party anticipates that Client will require Provider's services on a "full-time" basis.

2. **Compensation.** Subject to the terms and conditions of this Agreement, during the effective times of this Agreement, Client shall pay to Provider compensation for the Consulting as set forth on Exhibit A less any reimbursements owed by the Provider to Client. In addition to any compensation owed to Provider, Client shall reimburse Provider, or if so directed directly pay, for any professional services engage by provider as part of the Consulting. Client and Provider agree that all such reimbursements shall be limited to actual costs incurred by Provider without Provider mark-up. Client acknowledges and understands that Provider may or may not perform many of the professional tasks described and instead Provider may engage third parties to perform such services. Client also acknowledges and agrees that certain third party professional service providers engaged by Provider may be affiliated to, related to, or under common ownership with Provider and Client expressly agrees that Provider may engage such affiliated companies or people. Client and Provider intend to act and perform as independent contractors, and the provisions hereof are not intended to and shall not create any partnership, joint venture, agency or employment relationship between the parties. Neither Provider's personnel, including all of its employees, or any professional service provider engaged by Provider, shall be considered employees of Client within the meaning or application of any federal, state, or local laws or regulations. Provider shall be responsible for the payment of wages, salaries, and other amounts due its personnel in connection with their performance hereunder, and shall be responsible for all payroll reports and obligations, including but not limited to withholding, social security, unemployment insurance, workers' compensation, immigration and naturalization, and similar items.

3. **Intentionally Omitted.**

4. **Intentionally Omitted.**

5. **Intentionally Omitted.**

6. **Term and Termination.** Except as otherwise provided elsewhere in this Agreement, this Agreement, and all rights and obligations hereunder, shall continue until it is terminated pursuant to one of the following provisions:

(a) Term. The term of this Agreement shall commence on the Effective Date and continue thereafter for a period of one hundred twenty (120) months (“**Initial Term**”) and the Agreement, after the expiration of the Initial Term, shall automatically renew for successive periods of twelve (12) months (each such renewal a “**Renewal Term**” and together with the Initial Term, collectively the “**Term**”) unless and until either party provides prior written notice to the other party of its intention not to renew this Agreement by providing ninety (90) days’ notice prior to the start of the applicable Renewal Term. In the event either party provides such written notice of its intention not to renew, upon completion of the Term including any Renewal, in the event that Provider continues to provide services, such services shall be terminable at any time by either party until and/or unless such time as a new agreement is in place. The provisions of **Sections 7, 8, 9, 10, 11, and 12** hereof shall survive the Term and any termination of this Agreement.

(b) Termination without Cause. Client may only terminate this Agreement prior to the expiration of the term for cause, as described in Section 6(c). Provider may terminate this Agreement at any time prior to the expiration of the Term, without cause, only in compliance with the following provisions: Provider shall provide one hundred twenty (120) days’ prior written notice (“**Provider Notice Period**”) to Client of such termination. If Provider is unwilling to or otherwise does not provide services through the expiration of the Provider Notice Period, Provider shall pay to Client the “**Liquidated Damage Payment**”, which shall mean a payment calculated by multiplying the number of Remaining Work Days, as defined below (with the term “**Work Day**” defined as a day falling on Monday through Friday exclusive of any federal holidays), in the Provider Notice Period by \$150.00. Both Client and Provider agree that the Liquidated Damage Payment is necessary because the actual damages to Client due to Provider not fulfilling the Provider Notice Period would be difficult, if not impossible, to ascertain and that the amount stipulated is a reasonable estimate of the damages which would likely be caused by Provider’s failure to complete the Provider Notice Period. The “**Remaining Work Days**” shall mean and be calculated as follows: y) the total number of Work Days in the Provider Notice Period; z) less the number of Work Days actually worked and to be worked by Provider calculated through the expiration of the Provider Notice Period. If Provider terminates this Agreement or its provision of services pursuant to this Agreement at any time prior to the expiration of the Term and does not comply with the provisions of this subsection 6(b) and Provider has not made the Liquidated Damages Payment, Client may deduct or offset the Liquidated Damages Payment, or any part thereof, from any amounts owed by Client to Provider, in addition to any other remedies of Client at law or in equity.

(c) Termination for Cause. Client may terminate this Agreement immediately upon notice to Provider upon the occurrence of any of the following events:

i) James N. McGarvey, III’s (“McGarvey”) death;

ii) McGarvey’s permanent and total disability. For the purpose of this Agreement, “permanent and total disability” shall mean the inability of an apparently permanent nature of McGarvey and/or Provider to satisfactorily perform the obligations set forth herein due to mental or physical incapacity. Such permanent and total disability shall be determined by Client and shall be based on certification of such disability by the disability insurance carrier as outlined within the carrier’s documentation;

- iii) McGarvey's and/or Provider's engaging in a material act of fraud or dishonesty or abuse of authority in connection with the discharge of Provider's duties for Client;
- iv) McGarvey's and/or Provider's commission of a willful act involving moral turpitude which materially and adversely affects the name and goodwill of Client or Client's relationship with its employees, patients or other dentists;
- v) McGarvey's and/or Provider's treatment of employees, patients, vendors, or partners of Client or its affiliates in a disrespectful or inappropriate manner;
- vi) McGarvey's and/or Provider's habitual and intemperate use of alcohol or drugs to the extent that the same materially interferes with Provider's ability to competently, diligently and substantially perform the duties of Provider hereunder;
- vii) McGarvey's and/or Provider's failure to present himself/itself in a professional manner, including proper hygiene and professional attire;
- viii) McGarvey's and/or Provider's use of Client's facilities after working hours (excluding on-call needs) for Provider's benefit without receiving prior written permission from Client;
- ix) McGarvey's and/or Provider's engagement in collection of payments directly and for Provider's, or any staff of Provider, benefit for services performed while using Client's facilities or during the Term of this Agreement;
- x) McGarvey's and/or Provider's breach of this Agreement, including, but not limited to, the breach of Sections 7, 8, 9, 10, 11, and 12;
- xi) McGarvey's and/or Provider's material and substantial failure to perform Provider's duties or obligations hereunder or comply with the policies and procedures of Client or any of the other covenants of Provider contained herein, after being given a reasonable opportunity to cure or correct such failure.

Any determination that this Agreement shall be terminated for "cause" must be made by Client acting in good faith and such determination shall be binding on Provider. Upon Client's termination of this Agreement for "cause", Client shall no longer have any obligation to compensate Provider on an ongoing basis. Termination of this Agreement shall not relieve either party from any liability it may have for breach of this Agreement. The provisions of **Sections 7, 8, 9, 10, 11, and 12** hereof shall survive any termination of this Agreement.

7. **Maintenance of Records; Confidentiality.** Provider shall maintain accurate and proper business records with respect to all services provided under this Agreement. Provider, and each member of Provider's staff, acknowledges that by reason of Provider's engagement with Client, Provider will have access to certain confidential and proprietary information of Client ("Confidential Information"), and that such information constitutes valuable, special and unique property of Client. Provider agrees that Provider, nor any member of Provider's staff, will not, for any reason or purpose whatsoever, during or after the Term of this Agreement, use any of such information, or reveal or disclose any such information to any party outside Client, or remove or aid in removal from the

premises of Client any such information or any material which relates thereto, except (i) in the performance of Provider's duties in the furtherance of Client's business or, (ii) with the specific prior written consent of Client for such use, disclosure or removal. Upon termination of this Agreement (regardless of the date, cause or manner of such termination), Provider and all of Provider's staff shall return to Client all property whatsoever of Client in or under Provider's and/or its staff's possession or control, including without limitation all confidential and proprietary information. Without limiting the foregoing, Confidential Information shall include all materials, information and ideas of Client, patient names, patient lists, patient records, patient information, operation methods and information, marketing and pricing information and materials, internal publications and memoranda, other matters considered confidential by Client which are not otherwise publicly available and any information, in any form, that is a trade secret within the meaning of N.C. Gen. Stat. §§ 66-152 – 66-157. The Confidential Information shall be and shall remain at all times the property of Client. The Confidential Information shall not be disclosed by Provider and/or its staff except to its legal, accounting and financial advisors (the "Provider Representatives") strictly for use by such parties in their professional capacity. Provider and Provider's Representatives will use all reasonable precautions to assure that all confidential information is properly protected and kept from unauthorized persons. If Provider or any of Provider's Representatives becomes legally compelled by subpoena to make any disclosure that is prohibited or otherwise constrained by this Agreement, Provider or the Provider's Representatives, as the case may be, will provide Client with prompt written notice identifying the Confidential Information sought and the date and time for production or other disclosure required, so that Client may seek an appropriate protective order or other appropriate relief or waive in writing in its sole discretion compliance with the provisions of this Agreement. In the absence of a protective order or the Provider's receiving such a written waiver from Client, Provider or the Provider's Representative will be permitted to disclose that portion (and only that portion) of the Confidential Information or other information that the Provider or the Provider's Representatives are legally compelled to disclose. The terms and provisions of this Section shall survive the termination of this Agreement, regardless of the date, cause or manner of such termination.

8. **Covenant Limiting Competition.** Provider and McGarvey hereby stipulate, covenant and agree that it/he shall not, other than on behalf of Client, without the prior, express and written consent of Client, compete with Client during the Term of this Agreement and the twenty-four (24) month period following termination of this Agreement for any reason (the Term and additional twenty-four (24) month period are referred to collectively herein as the "**Restrictive Period**") by engaging in Consulting for the purpose of operating or starting any competing pediatric dentistry practice within a ten (10) mile radius of any of the Practices at which Provider has provided services, such practices are currently located as listed but subject to change, including (i) 148 East Morgan Street, Wadesboro, NC 28170; (ii) 140 Mahaley Avenue, Suite B, Salisbury, NC 28144; (iii) 202 Williamson Road, Suite 200, Mooresville, NC 28117; (iv) 1209 Davie Avenue, Statesville, NC 28677; (v) 1315 Wilkesboro Boulevard, Lenoir, NC 28645; (vi) 7206 Austin Smiles #1, Denver, NC 28037; (vii) 701 S Laurel Street #1, Lincolnton, NC 28092; (viii) 2301 S. Cannon Boulevard, Kannapolis, NC 28083; (ix) 236 Market Street, Suite 200, Locust, NC 28097; (x) 275 N Hwy 16, Suite 204B, Denver, NC 28037; (xi) 1637 College Ave, Spindale, NC 28160; (xii) 221 Simpson Park Road, Shelby, NC 28150, and (xiii) any future locations of Client provided that Client and Provider will agree to each additional location and corresponding restricted radius in writing whereby Provider's consent shall not be unreasonable withheld (the "**Territory**"). Notwithstanding the foregoing, with respect to the location set forth in (xii) above only, the Territory shall be increased to a fifteen (15) mile radius. If the Territory as defined above is deemed unenforceable because the radius is too wide, then the widest permissible radius shall apply; provided however that Provider may act as a broker or

advisor in a transaction by which a Pediatric or general dentistry practice is sold provided that Provider's services are limited to advising such practice through the purchase and sale transaction. For purposes of this agreement, the term Pediatric ("Pediatric") shall apply to any services performed on patients eighteen (18) years of age or younger; or

Provider and McGarvey agree that this Agreement is reasonable and necessary to protect the legitimate business interests of Client. Without limiting the foregoing sentence, Provider and McGarvey expressly acknowledge and agree that Provider's experience and abilities are such that the covenants and restrictive agreements contained herein are reasonable as to scope, location, and duration, that Provider's and/or McGarvey's experience and abilities are readily transferrable to non-competitive businesses, that Provider and/or McGarvey has adequate means to provide for Provider and/or McGarvey and Provider's and/or McGarvey's dependents until such time as Provider and/or McGarvey is able to secure alternative employment (or the provisions of this Section 8, Section 9, and Section 10 expire), and that Provider's and/or McGarvey's strict observance of the provisions contained herein will not cause Provider and/or McGarvey undue hardship or unreasonably interfere with Provider's and/or McGarvey's ability to earn a livelihood and practice Provider's and/or McGarvey's present skills and trades. Both Provider and McGarvey have been given the opportunity to consult with legal counsel of their choice regarding the meaning of the provisions of this Section 8, Section 9, and Section 10, which have been explained to Provider's and/or McGarvey's satisfaction. Provider and/or McGarvey further agree that such provisions shall be construed in such a manner as to be enforceable under applicable laws in the event that a court of competent jurisdiction determines that a more limited scope, location or duration is required as more fully described below.

9. **Non-Solicitation of Patients.** Provider and/or McGarvey stipulate, covenant and agree that during the Term of this Agreement and the Restrictive Period, it/he shall not, directly or indirectly, other than on behalf of Client, without the prior, express and written consent of Client, either individually or on behalf of any party, solicit a Patient on behalf of a dentistry practice for the purpose of engaging such Patient for such practice. For purposes of this Agreement, "**Patient**" shall mean any person to whom Client has provided dental services within the preceding twenty-four (24) months. If the terms of this paragraph are violated, Client will be entitled to enforce specific performance of this Paragraph 9 pursuant to Paragraph 13 of this Agreement.

10. **Non-Inducement of Employees.** Provider and/or McGarvey stipulate, covenant and agree that during the Term of this Agreement and the Restrictive Period, it/he shall not, directly or indirectly, other than on behalf of Client, without the prior, express and written consent of Client, solicit or induce any employee of Client to leave his or her employment with Client. If the terms of this paragraph are violated, Client will be entitled to enforce specific performance of this Paragraph 10, pursuant to Paragraph 13 of this Agreement.

11. **Indemnification.** In further consideration of the amounts paid by Client, Provider agrees to indemnify unconditionally and hold Client harmless from any and all damages, costs, fines, or penalties, arising out of or relating to a claim, suit, action, or petition by any person or entity seeking relief against Client based in whole or in part on the negligence or wrongful acts of Provider and/or McGarvey.

12. **No Disparagement.** Provider and/or McGarvey agree that it/he shall not make, or cause to be made, any statement, or communicate any information (whether verbal or written) that disparages or reflects negatively on Client and its owners, employees, managers, principals, partners, and patients.



Nothing herein shall preclude Provider and/or McGarvey from complying with a subpoena or other lawful process.

13. **Specific Performance.** Provider and/or McGarvey acknowledge that the restrictions contained in **Sections 7, 8, 9, 10, 11, and 12** are reasonably necessary to protect the legitimate business interests of Client and that any violation of such restrictions will result in irreparable injury to Client for which damages will not be an adequate remedy. Provider and/or McGarvey therefore acknowledges that if it/he violates any such restrictions, Client shall be entitled to preliminary and permanent injunctive relief as well as to an equitable accounting of earnings, profits and other benefits arising from such violation, which rights shall be cumulative and in addition to any other remedies to which Client may be entitled.

14. **Assignability.** Client may transfer or assign this agreement at any time to its successors, affiliates, assigns and subsidiaries. Provider shall not assign this Agreement or any rights hereunder.

15. **Entire Agreement.** This Agreement contains the entire agreement between Client and Provider, and where explicitly included, McGarvey, with respect to the subject matter hereof, and merges and supersedes all prior agreements, understandings, or negotiations whatsoever with respect to the subject matter hereof.

16. **Amendments and Waivers.** No amendment of this Agreement or any waiver of any of its provisions shall be effective unless expressly stated in writing and signed by both parties. No delay or omission in the exercise of any right, power or remedy under or for this Agreement shall impair such right, power or remedy or be construed as a waiver of any breach. Any waiver of a breach of this Agreement or any failure to claim a breach of this Agreement shall not be treated as a waiver of any subsequent breach.

17. **Severability and Savings Clause.** Each provision of this Agreement shall be considered severable, and if any provision of this Agreement shall be held illegal, invalid, or otherwise unenforceable under controlling law, the remaining provisions of this Agreement shall not be affected thereby but shall continue in effect. The parties intend that this Agreement be valid and enforced as written; however, if any provision, or any part hereof, is held to be invalid, illegal or unenforceable because of the scope, location, or duration, or the subject matter or geographic area covered by such provision, or for any other reason, Client and Provider, and McGarvey where explicitly included, agree that the court making such determination shall have the power to modify or reduce the scope, location and/or duration, subject matter and/or geographical area of such provision to make such provision enforceable to the fullest extent permitted by law, and/or delete specific words and phrases and in its modified or reduced form, such provision shall then be enforceable and shall be enforced.

18. **Governing Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina.

19. **Construction of Terms.** Any reference herein to the masculine shall include the feminine or neuter, and any reference herein to the singular or plural may be construed as plural or singular wherever the context requires. The headings of the sections of this Agreement have been inserted for purposes of convenience and shall not be used for interpretive purposes.

20. **Notices.** Any notice given by either party hereunder shall be in writing and shall be personally delivered by mail, certified or registered mail, postage prepaid, as follows:

To Client: David E Thome DDS PLLC 1  
8604 Cliff Cameron Drive  
Suite 170  
Charlotte, NC 28269  
Attention: David E. Thome, DDS

To Provider: Stonepath Pedo LLC  
1224 Belgrave Place  
Charlotte, NC 28203  
Attention: James N. McGarvey, III

**PLEASE NOTE: BY SIGNING THIS SERVICE PROVIDED AGREEMENT, CLIENT, PROVIDER, AND WHERE EXPLICITLY INCLUDED, MCGARVEY, ARE HEREBY CERTIFYING THAT THEY EACH (A) RECEIVED A COPY OF THIS AGREEMENT FOR REVIEW AND STUDY BEFORE EXECUTING IT; (B) READ THIS AGREEMENT CAREFULLY BEFORE SIGNING IT; (C) HAD SUFFICIENT OPPORTUNITY TO CONFER WITH COUNSEL OF EACH PARTY'S CHOICE; (D) HAD SUFFICIENT OPPORTUNITY BEFORE SIGNING THE AGREEMENT TO ASK ANY QUESTIONS SUCH PARTY HAD ABOUT THE AGREEMENT AND RECEIVED SATISFACTORY ANSWERS TO ALL SUCH QUESTIONS; AND (E) UNDERSTAND ITS/HIS RIGHTS AND OBLIGATIONS UNDER THE AGREEMENT.**

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement the day and year first above written.

**CLIENT:**

THOME & ZIMMER DDS PLLC I  
DAVID E THOME DDS PLLC  
DAVID E THOME DDS PLLC 1  
DAVID E THOME DDS PLLC II  
DAVID E THOME DDS PLLC III  
DAVID E THOME DDS PLLC IV  
DAVID E THOME DDS PLLC V  
DAVID E THOME DDS PLLC VI  
DAVID E THOME DDS PLLC VII  
DAVID E THOME DDS PLLC VIII  
DAVID E THOME DDS PLLC IX  
DAVID E THOME DDS PLLC X  
THOME LOWERY & HENDRICK DDS PLLC  
THOME & HENDRICK DDS PLLC  
all North Carolina professional limited liability  
companies

By: 

David E. Thome, DDS, Manager

**PROVIDER:**

STONEPATH PEDO LLC  
a North Carolina limited liability company

By: 

James N. McGarvey, III, Manager

James N. McGarvey, III individually joins and executes this Agreement for the limited purpose of agreeing to be bound by the obligations stated herein only where he is explicitly included:

  
James N. McGarvey, III

## **EXHIBIT A**

### **COMPENSATION**

Subject to the terms and conditions of this Agreement, during the Term of this Agreement, Client shall pay to Provider, as compensation for the performance of Consulting described in the Agreement the amount described below (the “Payment”):

Client shall pay to Provider an amount equal to Three Thousand and No/100 Dollars (\$3,000.00) per month per location at which Provider is engaged to provide services. All compensation due pursuant to this Agreement shall be paid within thirty (30) days of the expiration of the month in which the Payment is earned.

# EXHIBIT D

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Add a Domain

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Custom Nameservers

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🛡 Security

Domains

BUY MORE DOMAIN NAMES

All My Domain Names (14)

SUMMARY VIEW

ACTIONS

Search by domain name

FILTERS

8 selected | 14 results

Domain Name	Status	Renewal Date	Registrant	Domain Lock	Auto Renew	Expiration Date	Connections	Actions
<input checked="" type="checkbox"/> <a href="#">ncpedmail.com</a>	Active	Auto-Renews 7/23/2026	NC Pediatric Dentistry jamesmc3@yahoo.com	Off	On	7/23/2026	No connected s	⋮
<input checked="" type="checkbox"/> <a href="#">ncpediatricdentistry.com</a>	Active	Auto-Renews 8/20/2025	NC Pediatric Dentistry jamesmc3@yahoo.com	Off	On	8/20/2025	No connected s	⋮

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🛡 Security

Domains

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SUMMARY VIEW

ACTIONS

Search by domain name

FILTERS

8 selected | 14 results

Domain Name	Status	Renewal Date	Registrant	Domain Lock	Auto Renew	Expiration Date	Connections	Actions
<input checked="" type="checkbox"/> <a href="#">carolinadentalnetwork.com</a>	Active	Auto-Renews 6/12/2025	None jamesmc3@yahoo.com	Off	On	6/12/2025	No connected s	⋮
<input checked="" type="checkbox"/> <a href="#">aftonpediatricdentistry.com</a>	Active	Auto-Renews 12/3/2025	None jamesmc3@yahoo.com	Off	On	12/3/2025	No connected s	⋮
<input checked="" type="checkbox"/> <a href="#">dunnpediatricdentistry.com</a>	Active	Auto-Renews 3/19/2026	None jamesmc3@yahoo.com	Off	On	3/19/2026	No connected s	⋮
<input checked="" type="checkbox"/> <a href="#">hickorygrovepediatricdentistry.com</a>	Active	Auto-Renews 4/30/2025	None jamesmc3@yahoo.com	Off	On	4/30/2025	No connected s	⋮

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Domains

BUY MORE DOMAIN NAMES

All My Domain Names (14)

SUMMARY VIEW

ACTIONS ▾

Search by domain name

FILTERS

8 selected | 14 results

Domain Name ▾	Status ▴	Renewal Date ▴	Registrant ▴	Domain Lock	Auto Renew ▴	Expiration Date ▴	Connections	Actions
<input checked="" type="checkbox"/> <a href="#">sherrillsfordpediatricdentistry.com</a>	Active	Auto-Renews 3/13/2026	None jamesmc3@yahoo.com	Off	On	3/13/2026	No connected s	

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https://www.hostgator.com/my-account/domain-center/domain-list

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BUY MORE DOMAIN NAMES

All My Domain Names (14)

SUMMARY VIEW

ACTIONS ▾

Search by domain name

FILTERS

8 selected | 14 results

Domain Name ▴	Status ▴	Renewal Date ▴	Registrant ▴	Domain Lock	Auto Renew ▴	Expiration Date ▴	Connections	Actions
<input checked="" type="checkbox"/> <a href="#">ncdentalnetwork.com</a>	Active	Auto-Renews 6/18/2025	None jamesmc3@yahoo.com	Off	On	6/18/2025	No connected s	

# EXHIBIT E



Cynthia Stokes 1/28 10:37AM: Good morning I am trying to access Hostgator can you please look in your recovery email acct for a verification code? [jmc\\*\\*\\*\\*@sto\\*\\*\\*\\*.com](mailto:jmc****@sto****.com)>

James McGarvey 1/28 1:19 PM: Just a quick update on my end, I looked at the host gator domains and several say/show pending transfer with DT. I'm waiting on about five codes requested over the last week from HostGator right now as well for others.

# EXHIBIT F

**Re: HostGator Inquiry**

---

**From** James McGarvey <jamesm@ncpediatricdentistry.com>

**Date** Fri 3/21/2025 9:34 AM

**To** Cynthia Stokes <CynthiaS@ncpediatricdentistry.com>

**Cc** Ben Pruyne <ben.pruyne@dtpartners.com>

Good morning,

I will gladly transfer the domains I purchased and own in my personal account upon completion of my transaction with NC Pedo Dent Leasing. I have requested codes today in order to send quickly as received. It takes approx. 3 days to get the code from Hostgator.

Thanks.

James

On Mar 20, 2025, at 1:38 PM, Cynthia Stokes <CynthiaS@ncpediatricdentistry.com> wrote:

Good afternoon,

Can you provide an update on the status of the HostGator accounts?

Thank you!

Cynthia

Cynthia Stokes, MBA  
Marketing Coordinator  
NC Pediatric Dentistry  
<Outlook-hr43h3vv.png>

[CynthiaS@ncpediatricdentistry.com](mailto:CynthiaS@ncpediatricdentistry.com)

Cell: (352)216-2363

# EXHIBIT G

From: Kelly Bare  
To: [Walter Bare](#), [David Thome](#)  
Cc: [David Thome](#)  
Subject: Pw URGENT DOMAIN REQUEST - NC Pediatric Dentistry.com - ACCOUNT 86387988 [EML-1368341]  
Date: Thursday, April 3, 2025 3:19:31 PM  
Attachments: [ncpediatricdentistry.com\\_8530217540992151.jpg](#)  
[ncpediatricdentistry.com\\_8530217540992151.jpg](#)

**\*\*EXTERNAL EMAIL; use caution with links and attachments\*\***

From: [cases-support@hostgator.com](mailto:cases-support@hostgator.com) <[cases-support@hostgator.com](mailto:cases-support@hostgator.com)>  
Sent: Thursday, April 3, 2025 3:13 PM  
To: Kelly Bare <[kellyb@ncpediatricdentistry.com](mailto:kellyb@ncpediatricdentistry.com)>  
Subject: URGENT DOMAIN REQUEST - NC Pediatric Dentistry.com - ACCOUNT 86387988 [EML-1368341]

**CAUTION** This email originated from outside of NC Pediatric Dentistry. Do not click links, open attachments, or enter passwords unless you recognize the sender and know that the content is safe. Please use caution!



Hi Kelly,

My name is Colleen with Hostgator, thank you for your patience as we attempt to assist you with gaining account access. I know how challenging this process can be to work through and I do want to help however I can.

I must inform you however, that the account in question is owned by an individual whose name did not match the documentation you provided. Please understand Hostgator takes account security very seriously and our security policies are designed to ensure our customers' protection. In order to move forward with your request please review the information posted below.

The current primary contact must give you control of the domain names. If there is no way for you to contact the individual who set up the account and the related contact email. The only option is to obtain a Court Order that states that you are to take possession of the domain names. The court order MUST be directed toward Hostgator and it must state that you are the rightful owner of the domain names, emails, and sites associated with them.

I hope this information was helpful. We will consider the matter closed until the account owner submits a request through the account recovery form or we receive a valid court order.

Regards,  
Colleen  
Processing Specialist



Your services are subject to the terms and conditions set forth in our [Service Agreement](#), which you accepted at the time of purchase. Please note, in accordance with our [Privacy Policy](#), we will continue to send you notices and other important information affecting your account or services in order to fulfill our obligations to you.

©2025 by HostGator, LLC. All Rights Reserved. 5335 Gate Pkwy, 2nd Floor, Jacksonville, FL 32256

From: Kelly Bare <[kellyb@ncpediatricdentistry.com](mailto:kellyb@ncpediatricdentistry.com)>  
Date: Thursday, April 03, 2025 02:22 PM  
To: [accountupdate@hostgator.com](mailto:accountupdate@hostgator.com)  
Cc: David T <[DavidT@ncpediatricdentistry.com](mailto:DavidT@ncpediatricdentistry.com)>  
Subject: URGENT DOMAIN REQUEST - NC Pediatric Dentistry.com - ACCOUNT 86387988

As a follow up to my conversations with your customer service department, I am writing to update the contact information on our account. We are requesting that you promptly remove our former CFO, James McGarvey, from our accounts and designate the Primary User status to Kelly Thome, as the Chief Operating and Financial Officer of NC Pediatric Dentistry. The domains were registered on behalf of our practices (collectively known as NC Pediatric Dentistry) by James McGarvey, a former independent contractor/employee that no longer provides services. During the registration, he incorrectly used his personal email, which is currently preventing us from being able to have rightful control of the domains. Please notice that the registrant for the domains is NC Pediatric Dentistry and other entities owned by Dr. Thome. I have attached proof of the dba for NC Pediatric Dentistry as well as the Articles of Incorporation for which they were filed, along with other supporting entity documents. Further, I would ask that you take note of my [ncpediatricdentistry.com](mailto:ncpediatricdentistry.com) email on this communication as support and note that the email Mr. McGarvey is using is his personal yahoo account.

Below is a list of the accounts that should be transferred over to my control:

Domain Name	Account No.	Expiration Date	Auto Renew	Private	Whois Administrative Contact	Whois Technical Contact	Account Holder	Domain Lock	Website Forwarding	Nameservers
<a href="mailto:afonpediatricdentistry.com">afonpediatricdentistry.com</a>	86387988	12/3/2025	TRUE	On	James McGarvey	James McGarvey	James McGarvey	Off		NS6191.HOSTGATOR.COM,NS6194.HOSTGATOR.COM
<a href="mailto:carolinadentalnetwork.com">carolinadentalnetwork.com</a>	86387988	6/12/2025	TRUE	On	James McGarvey	James McGarvey	James McGarvey	Off		NS1.HOSTGATOR.COM,NS2.HOSTGATOR.COM
<a href="mailto:carolinastfamilydentistry.com">carolinastfamilydentistry.com</a>	86387988	6/12/2025	TRUE	On	James McGarvey	James McGarvey	James McGarvey	On		NS1.HOSTGATOR.COM,NS2.HOSTGATOR.COM
<a href="mailto:dunnpediatricdentistry.com">dunnpediatricdentistry.com</a>	86387988	3/19/2026	TRUE	Off	James McGarvey	James McGarvey	James McGarvey	Off		NS6193.HOSTGATOR.COM,NS6194.HOSTGATOR.COM
<a href="mailto:hickorygrovepediatricdentistry.com">hickorygrovepediatricdentistry.com</a>	86387988	4/30/2025	TRUE	Off	James McGarvey	James McGarvey	James McGarvey	Off		NS6191.HOSTGATOR.COM,NS6194.HOSTGATOR.COM
<a href="mailto:jiamarhello.com">jiamarhello.com</a>	86387988	9/26/2025	TRUE	Off	James McGarvey	James McGarvey	James McGarvey	On		NS6193.HOSTGATOR.COM,NS6194.HOSTGATOR.COM
<a href="mailto:ncdentalnetwork.com">ncdentalnetwork.com</a>	86387988	6/18/2025	TRUE	On	James McGarvey	James McGarvey	James McGarvey	Off		NS0.WIXDNS.NET,NS1.WIXDNS.NET
<a href="mailto:ncpediatricdentistry.com">ncpediatricdentistry.com</a>	86387988	8/20/2025	TRUE	On	James McGarvey	James McGarvey	James McGarvey	Off		HGNS1.HOSTGATOR.COM,HGNS2.HOSTGATOR.COM
<a href="mailto:ncpedmail.com">ncpedmail.com</a>	86387988	7/23/2026	TRUE	On	James McGarvey	James McGarvey	James McGarvey	Off		NS6193.HOSTGATOR.COM,NS6194.HOSTGATOR.COM
<a href="mailto:sherrillsfordpediatricdentistry.com">sherrillsfordpediatricdentistry.com</a>	86387988	3/13/2026	TRUE	Off	James McGarvey	James McGarvey	James McGarvey	Off		NS6193.HOSTGATOR.COM,NS6194.HOSTGATOR.COM

Please contact me directly at 352-266-0022 with any questions or concerns. A link to our company website is also included in my signature line below.

Thank you.

*Kelly Thomas*

Chief Operating & Financial Officer

Cell: 352-266-0022

[kellyh@ncpediatricdentistry.com](mailto:kellyh@ncpediatricdentistry.com)

<https://ncpediatricdentistry.com>



NOTICE: All information in and attached to the e-mail(s) below may be proprietary, confidential, privileged and otherwise protected from improper or erroneous disclosure. If you are not the sender's intended recipient, you are not authorized to intercept, read, print, retain, copy, forward, or disseminate this message. If you have erroneously received this communication, please notify the sender immediately by phone (352-266-0022) or by e-mail and destroy all copies of this message (electronic, paper, or otherwise). Thank you.

-- Do not delete or change the following text --  
Security code: u86G6O28IE+h8OQG5ppzA==  
The above code helps us secure your communication.

# EXHIBIT H

April 4, 2025

**Via Electronic Mail**

David Rugani  
Jaylyn Powell  
Johnston, Allison & Hord P.A.  
1065 E. Morehead St.  
Charlotte, NC 28204  
[drugani@jahlaw.com](mailto:drugani@jahlaw.com)  
[jpowell@jahlaw.com](mailto:jpowell@jahlaw.com)

**Re: Wrongfully Seized Internet Domains: Immediate Action Required**

Dear Mr. Rugani and Ms. Powell:

As you know, this firm represents NC Pediatric Dentistry (“NCPD” or the “Company”). I am writing to you regarding recent troubling conduct by your clients James McGarvey and Stonepath Pedo LLC (referred to collectively as “Mr. McGarvey”).

Specifically, it has recently come to the Company’s attention that Mr. McGarvey has taken control of several internet domains registered on behalf of and owned by NCPD and refused to relinquish that control to the Company. Mr. McGarvey’s actions are causing irreparable harm to the Company and its patients. In particular, NCPD understands that Mr. McGarvey is:

- Wielding his designation as the “administrative contact” and the “technical contact” for the following domain addresses (the “Seized Domains”) to unlawfully seize control of the domains from the Company, and refusing to return control the same to the Company in violation of Section 7 of the Service Provider Agreement dated January 1, 2020 executed by Mr. McGarvey in connection with his company Stonepath Pedo LLC’s former standing as a Provider to the Company (the “Agreement,” attached as **Appendix A**).
  - aftonpediatricdentistry.com
  - cabarruspediatricdentistry.com
  - caredainstitute.com
  - caredentalassistinginstitute.com
  - carolinadentalnetwork.com
  - carolinalaserandoraltherapy.com
  - carolinalaseroraltherapy.com
  - carolinaoraltherapy.com
  - concordkidsdental.com
  - dunnpediatricdentistry.com



- fuquaypediatricdentistry.com
  - hickorygrovepediatricdentistry.com
  - locustpediatricdentistry.com
  - mooresvillepediatricdentistry.com
  - ncdentalnetwork.com
  - ncdenverpediatricdentistry.com
  - ncpediatricdentistry.com
  - ncpedmail.com
  - nctonguetieclinic.com
  - salisburypediatricdentistry.com
  - shelbypediatricdentist.com
  - sherrillsfordpediatricdentistry.com
  - sherrillsfordpediatricdentistry.com
  - statesvillepediatricdentistry.com
  - ncpdinsurance.com
  - ncpdengagement.com
- Expressly or implicitly suggesting that he will shut down one or more of the Seized Domains, presumably in an attempt to gain leverage in business negotiations he is currently conducting with the Company, which would irreparably harm not only the Company but also the patients who depend on access to the Seized Domains for emergency care, dental services, and access to dental records.
  - Asserting control over the Company's sensitive, confidential, and proprietary information regarding its business operations in breach of his legal obligations to the Company, including those specified in Section 7 of the Agreement.

**Cease & Desist and Next Steps**

With this letter, the Company demands that Mr. McGarvey take the following remedial actions immediately:

- Return control of the Seized Domains to the Company and notify Host Gator by email that he is no longer asserting ownership, administrative control, or technical control over any of the Seized Domains and that the Company may designate Kelly Thome (or whomever else it would elect) as Mr. McGarvey's replacement as Administrative Contact, Technical Contact, and Account Holder;
- Confirm that he will no longer access the Seized Domains through the administrator login or in any other manner that is not available to the public at large;
- Disclose any other Company property (electronic or otherwise) in his possession and make arrangements to return that property as soon as possible in connection with his obligations under Section 7 of the Agreement;

- Refrain from disclosing or misappropriating Company confidential and proprietary information in violation of his legal obligations and provide confirmation of his understanding of the same; and
- Refrain from interfering with the Company's business and contractual relationships in violation of North Carolina common law.

We ask that you provide written confirmation to me via my email address above (lbeatty@mcguirewoods.com) of Mr. McGarvey's compliance with this demand and assurances of his intent to govern himself in accordance with his contractual and legal obligations moving forward no later than **5PM ET on Friday, April 4, 2025.**

In addition, please note this letter also serves as notice of NCPD LASD, LLC's termination of Mr. McGarvey's at-will employment relationship with NCPD LASD, LLC, and its affiliates, effective as of **Friday, April 4, 2025.**

Today, the domain host, HostGator, notified the Company that it will only transfer control of the Seized Domains with the consent of Mr. McGarvey, or, alternatively, a Court Order. Accordingly, if Mr. McGarvey does not comply with this notice, the Company is prepared to authorize us to take all appropriate steps to protect its legal rights, including initiating legal action against Mr. McGarvey to obtain injunctive relief (as Mr. McGarvey authorized in Section 13 of the Agreement) and recover monetary damages and attorneys' fees (as permitted by Section 11 of the Agreement) for any and all breaches of the Agreement and violations of statutory or common law.

Please note that this letter also serves as notice to Mr. McGarvey that he is under an obligation to preserve, and not alter or destroy, any and all documents and information (including electronically stored information) relating to the Agreement, the Seized Domains, and the issues identified in this letter. Because this matter could lead to litigation, failure to preserve all potentially relevant documents and information could lead to sanctions under applicable law.

The investigation regarding Mr. McGarvey's conduct is ongoing. Accordingly, nothing in this letter is intended or should be construed as any type of express or implied waiver or limitation of our client's rights, claims, remedies or defenses in connection with these matters, all of which are hereby fully and expressly reserved.

We appreciate Mr. McGarvey's immediate attention to these important matters and prompt compliance with the reasonable demands set forth above. In light of the anticipated of litigation between the parties, we are delivering this notice solely to you as his legal counsel, but if you would like for us to provide a courtesy copy directly to Stonepath Pedo LLC as provided in Section 20 of the Agreement, please let us know.

Sincerely,



R. Locke Beatty

# EXHIBIT I

April 11, 2025

David E. Stevens  
Partner

WRITER'S E-MAIL ADDRESS:  
dstevens@jahlaw.com

WRITER'S DIRECT DIAL:  
704-998-2256

*Via Electronic Mail*

Locke Beatty  
McGuireWoods LLP  
201 North Tryon Street, Suite 3000  
Charlotte, North Carolina 28202-2146  
[lbeatty@mcguirewoods.com](mailto:lbeatty@mcguirewoods.com)

Re: James McGarvey/NCPD LASD, LLC

Dear Mr. Beatty:

This letter is in response to your April 4, 2025 correspondence to my colleagues David Rugani and Jaylyn Powell, in which you seek to remedy “recent troubling conduct” by our client James McGarvey (the “Letter”).

As an initial matter, it is wholly unclear to us who you purport to represent, and on whose behalf you are making demands. Your letter states that you represent “NC Pediatric Dentistry.” We are aware of no such organization. You claim to be seeking to enforce claims against Mr. McGarvey and Stonepath Pedo, LLC, pursuant to a Service Provider Agreement attached to your letter, but “NC Pediatric Dentistry” is not a party to that Service Provider Agreement. You then go on to exert your authority as an alleged representative of “NC Pediatric Dentistry” to terminate Mr. McGarvey’s employment with NCPD LASD, LLC (“LASD”). LASD is likewise not a party to the Service Provider Agreement, so we remain confused as to which party, or parties, you represent and which you claim are entitled to assert rights against either Mr. McGarvey or Stonepath under the SPA, or for any of the allegations set out in your Letter.

All of these concerns, however, may be academic, as neither Mr. McGarvey nor Stonepath Pedo have “unlawfully seized control” of any internet domains, nor have they refused to “relinquish control” to the “Company” (whatever company that may be). It would appear that your client has provided you with inaccurate, or at least, incomplete, information. Of the twenty-six domain names noted in your Letter, virtually all of those domain names are controlled by the IT provider for NC Pedo Dent Leasing, LLC (“Leasing”), an entity of which Mr. McGarvey and Dr. David Thome are each fifty percent owners and co-Managers.<sup>1</sup>

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<sup>1</sup> Again, we cannot determine whether NC Pedo Dent Leasing, LLC is a company you claim to represent. To the extent you have any communications with NC Pedo Dent Leasing, LLC, we ask that you immediately provide all correspondence, notes, memorandums, attorney work product, emails, text messages, and any and all other documents or communications exchanged by you or anyone within your firm and David Thome, as such communications are not subject to the attorney-client privilege and are therefore lawfully discoverable to James McGarvey as a Manager of Leasing. We ask that you convey all such correspondence on or before the close of business on Monday, April 14, 2025.

Those domain names which are not managed by Leasing's IT provider are currently held by Mr. McGarvey in his capacity as a Manager of Leasing. Stonepath Peds, LLC has no management or control of any of the at-issue domains. It is undisputed that none of the at-issue domains have any impact on patient care or continuing business operations for any of the dental entities to which they are associated. In fact, your colleagues openly acknowledged and represented this very fact during a telephone call just last week.

It is our understanding that Dr. Thome created NCPD LASD, LLC as a new Dental Services Organization entity in February 2024, with the specific intention of usurping the investment and value which McGarvey helped create in Leasing over more than ten preceding years. By creating a competing entity, Dr. Thome directly and openly violated his non-compete and other obligations owed to Mr. McGarvey under Leasing's Operating Agreement. It also appears that in July 2024, Dr. Thome submitted a perjured affidavit to the North Carolina State Board of Dental Examiners, claiming that he "had no existing profit relationships" related to his continued practice of dentistry – a knowingly false statement in light of the fact that Thome had been operating Leasing on a shared-profit basis for the preceding ten years.

Since the creation of LASD fourteen months ago, Dr. Thome and his new wife, Kelly Thome, through LASD, have been systematically gutting financial assets, employees, and equipment from Leasing and converting them to LASD's use. We understand that your client now proposes to sell some or all of LASD's business operations, directly or indirectly, to a third party buyer, and freeze Mr. McGarvey out of his 50% of the proceeds of any such sale as he is entitled to pursuant to Leasing's Operating Agreement. Dr. Thome has no authority to do so under Leasing's Operating Agreement. It thus appears that your Letter is nothing more than another effort by the Thomes and LASD to pilfer assets which belong to Leasing, and therefore Mr. McGarvey. Simply put, any domains complained of in your letter are the property of Leasing, and Mr. McGarvey has every right through his co-ownership and co-management of Leasing to maintain control over the domains complained of in your Letter.

Dr. Thome's flagrant breaches of Leasing's Operating Agreement, and LASD's ongoing campaign to steal from Leasing, are but one of the serious concerns that Mr. McGarvey has regarding Thome and LASD's conduct. Dr. Thome's dental practices, under contract with Stonepath Peds, LLC, have failed to compensate Stonepath for more than \$400,000 in payments due under the Service Provider Agreement. Dr. Thome and his wife, in their ongoing campaign of self-dealing, commingled financial transactions between Leasing and Dr. Thome's dental practices, using assets out of Leasing to pay, among other things legal settlements incurred by the dental practices. In point of fact, Dr. Thome, without authorization of Mr. McGarvey, used funds from Leasing to finance legal invoices for the setup and creation of LASD. The issues set forth herein are but a miniscule sample of Dr. Thome and LASD's continued pattern of pervasive and fraudulent conduct.



Throughout his contentious business relationship with Dr. Thome, Mr. McGarvey has repeatedly sought to find a middle ground to avoid litigation which would surely be costly to all parties, and undoubtedly embarrassing and detrimental to Dr. Thome's continued practice of dentistry. Prior to your April 4 correspondence, it appears that the parties were on the verge of reaching agreement on a transaction which would have memorialized and finalized the parties' complete separation from one another, with certain less-contentious real estate matters to be concluded shortly thereafter. To wit, our two law firms specifically discussed the transfer of any remaining internet domains as part of a final transaction, and this concept was included by your law firm in an updated draft of the transaction documents weeks ago.

Mr. McGarvey remains willing to finalize a transaction with Mr. Thome to resolve and end any and all disputes that remain. It is your client (whoever that may be), that is threatening to escalate this matter to the courts. Be advised that should this matter be forced into litigation, Mr. McGarvey will vigorously defend his rights, and will pursue counterclaims against Dr. Thome, LASD, and Dr. Thome's dental entities for their misconduct. In addition, if your client attempts to close any transaction with a third party of LASD prior to the resolution of all matters between Dr. Thome and Mr. McGarvey, my client will immediately seek a temporary restraining order seeking to prevent any such transaction. If your client closes, or attempts to close, any such transaction in the interim, said lawsuit(s) would necessarily name the buyer as a defendant in any action. Should your client wish to re-engage in negotiations regarding the transaction, you may reach out to Mr. Rugani to resuscitate those talks no later than April 17, 2025. Otherwise, should Dr. Thome continue to pursue the sale of assets within Leasing which do not belong to him, Mr. McGarvey will have no choice but to affirmatively seek judicial relief to protect his rights.

Finally, this letter constitutes formal notice to Dr. Thome, Kelly Thome, each and every of Dr. Thome's dental practices, LASD, and any of LASD's its related entities and employees of their duty to preserve any and all evidence related to their conduct concerning these allegations, including, but not limited to, communications, via text, email or otherwise, related to James McGarvey, Stonepath Pedo, LLC, and NC Pedo Dent Leasing, LLC. Each party has a legal obligation not to destroy evidence, electronic records, or other relevant documents or communications and to take all reasonable efforts to prevent deletion, including securing and maintain all text messages or e-mails present on any devices or computers. We anticipate that you, in your capacity as counsel for "NC Pediatric Dentistry," will undertake and facilitate all necessary actions to protect against the spoliation of any relevant information or evidence.

This letter does not constitute an admission of liability on any part by Mr. McGarvey or Stonepath. Mr. McGarvey and Stonepath retain all rights, claims, and defenses available at law or in equity.

Very truly yours,

JOHNSTON, ALLISON & HORD, P.A.



David E. Stevens