



In the Missouri Court of Appeals Eastern District

AMERICAN ASSOCIATION OF)	No. ED90777
ORTHODONTISTS,)	
)	
Appellant,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	
)	
YELLOW BOOK USA, INC.)	Honorable Melvyn W. Weisman
)	
Respondent.)	Filed: November 18, 2008

OPINION SUMMARY

Plaintiff American Association of Orthodontists (AAO) sued Defendant Yellow Book USA, Inc. (Yellow Book) for unfair competition for Yellow Book's listing of general dentists as orthodontists in its "yellow pages" directories. AAO claims the listing lacks a statutorily required disclaimer that the general dentists are deficient in specialized training and certification as orthodontists. The Circuit Court, St. Louis County, Melvyn W. Weisman, J., granted Yellow Book's motion to dismiss AAO's amended petition requesting an injunction against Yellow Book, and AAO appealed.

AFFIRMED.

The Court holds: No private cause of action exists under Section 332.321, RSMo 2000, and the public policy of Section 332.321 does not extend to AAO a cause of action under the guise of an unfair competition claim. The advertising at issue is not misleading or deceptive to a consumer because general dentists who perform orthodontic services may truthfully list themselves under the heading "Dentists-Orthodontists." Moreover, Section 332.321 provides no public policy reason to regulate Yellow Book because Yellow Book does not fall within the class of persons regulated by the statute's clear and unambiguous language, persons licensed to practice dentistry in Missouri. Accordingly, the trial court properly dismissed AAO's petition for failure to state a claim.

Opinion By: Kurt S. Odenwald, J. Robert G. Dowd, Jr., P.J., and Roy L. Richter, J., Concur