

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of

Otto Bock HealthCare North America, Inc.,  
a corporation

Docket No. 9378

**NON-PARTY CASCADE ORTHOPEDIC SUPPLY INC.'S MOTION FOR  
CLARIFICATION AND/OR RECONSIDERATION**

Cascade Orthopedic Supply, Inc. (“Cascade”) respectfully moves the Administrative Law Judge (“ALJ”) for an order to clarify his July 6, 2018 Order on Non-Parties’ Motions for *In Camera* Treatment (“July 6 Order”) and/or for Reconsideration.

The July 6 Order granted Cascade’s Motion for *In Camera* Treatment with regard to all of the designated portions of the transcript of Jeffrey Collins’s Deposition (RX0999/PX5120) (“Collins Deposition Transcript”). As the ALJ recognized in issuing the July 6 Order, the purpose of Cascade’s Motion, among other things, was to protect from public disclosure sensitive business information discussed in detail in the deposition. Cascade, in its Motion, specifically requested that *in camera* treatment be given to the index portion of the Collins Deposition Transcript, because someone searching the index could easily determine what words had been redacted (that is, given *in camera* treatment) in the public version of the transcript itself, thus effectively eliminating some of the benefit of granting *in camera* treatment to portions of the transcript.

The July 6 Order, however, does not address specifically Cascade’s request for *in camera* treatment of the index portion of the Collins Deposition Transcript. *See* July 6 Order, at 6-7. Cascade does not know whether that omission was inadvertent or intentional. Accordingly,

Cascade moves the ALJ either to clarify and/or to reconsider his Order so as to provide clearly that the index of the Collins Deposition Transcript is also subject to *in camera* protection.

Absent such clarification and/or reconsideration so as to provide *in camera* treatment to the deposition index, the July 6 Order's grant of *in camera* protection will be partially frustrated.

Obviously, the deposition index is organized by words that appear in the full, non-public version of the deposition transcript. Some of those words, pursuant to the ALJ's Order, would be redacted from the public version of the transcript because they are among the portions granted *in camera* treatment. If *in camera* treatment is not given to the index, however, a party interested in divining the words afforded *in camera* treatment in the public version of the text of the deposition would need only to go to the unredacted index to determine the text of portions of the public version of the transcript that had been granted *in camera* treatment by the July 6 Order.

This process could be done quite simply. First, the interested party would create a list of all the words on a given page/line of the Collins Deposition Transcript using the index which lists each word in the transcript and all pages and lines on which that word appears. Then, the interested party would eliminate from the list the words not afforded *in camera* protection, *i.e.*, the words remaining visible in the Collins Deposition Transcript. The words remaining in the list reveal the words given *in camera* protection. Finally, the interested party could then use those words to understand some of the information afforded *in camera* protection, either by rearranging the words to form the withheld sentences or by simply plugging the words into the withheld portions of the transcript. Additionally, since the index lists the page and line number for each word, in some instances an interested party could simply search the index for a given page and line number—directly revealing the withheld word. This process, therefore, would disclose the meaning of sections of the transcript otherwise not disclosed to the public because it

was given *in camera* treatment, and would negate the value of granting *in camera* protections the ALJ has determined should be given to the Collins Deposition Transcript.

For the reasons set forth above, Cascade respectfully requests that the ALJ issue an order clearly affording *in camera* protection to the index of the Collins Deposition Transcript.

Dated: July 20, 2018

Respectfully submitted,

/s/ Daniel C. Schwartz

Daniel C. Schwartz

Josh James

josh.james@bclplaw.com

Bryan Cave Leighton Paisner LLP

1155 F St. NW

Washington, DC 20004

dcschwartz@bclplaw.com

T: +1 202 508 6000

*Counsel for non-party*, Cascade Orthopedic  
Supply Inc

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**[PROPOSED] ORDER**

Upon consideration of Non-Party Cascade Orthopedic Supply Inc.'s ("Cascade's") Motion For Clarification Or Reconsideration, it is HEREBY ORDERED that the index portion of Jeffrey Collins's Deposition (RX0999/PX5120) transcript is afforded *in camera* treatment for a period of five years.

**Ordered:**

\_\_\_\_\_  
D. Michael Chappell

Chief Administrative Law Judge

Date: \_\_\_\_\_