



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

In the Matter of)
)
)

POLYPORE INTERNATIONAL, INC.,)
Respondent.)
_____)

Docket No. 9327

**ORDER DENYING MOORE'S MOTION
FOR *IN CAMERA* TREATMENT**

On December 30, 2008, non-party The Moore Company ("Moore") filed a motion for *in camera* treatment of material, seeking *in camera* treatment of its Motion to Limit Subpoena *Duces Tecum* and to Seek Cost Reimbursement, which were also filed on December 30, 2008. Respondent, in its opposition to the motion to limit subpoena, states that it takes no position on Moore's motion for *in camera* treatment. For the reasons set forth below, Moore's motion for *in camera* treatment is DENIED.

Moore's motion for *in camera* treatment does not conform to the Rules. The Commission's Rules of Practice allow parties and non-parties to seek *in camera* treatment for material *offered into evidence*. 16 C.F.R. § 3.45(b) (emphasis added). For materials that are not offered into evidence, the Commission's Rules allow parties and non-parties to file a confidential version of any document filed in a Part III proceeding that includes information subject to confidentiality protections pursuant to a protective order. 16 C.F.R. §§ 3.22(b), 3.45(e).

Rule 3.22(b) of the Commission's Rules of Practice states "[i]f a party includes in a motion information that . . . is subject to confidentiality protections pursuant to a protective order, the party shall file two versions of the motion in accordance with the procedures set forth in § 3.45(e). The party shall mark its confidential filings with brackets or similar conspicuous markings to indicate the material for which it is claiming confidential treatment." 16 C.F.R. § 3.22(b).

Rule 3.45(e) of the Commission's Rules of Practice states "[i]f a party includes specific information that . . . is subject to confidentiality protections pursuant to a protective order in any document filed in a proceeding under this part, the party shall file two versions of the document.

A complete version shall be marked 'In Camera' or 'Subject to Protective Order,' as appropriate, on the first page and shall be filed with the Secretary and served by the party on the other parties in accordance with the rules in this part. Submitters of *in camera* or other confidential material should mark any such material in the complete versions of their submissions in a conspicuous matter, such as with highlighting or bracketing. . . . An expurgated version of the document, marked 'Public Record' on the first page and omitting the . . . confidential information and attachment that appear in the complete version, shall be filed with the Secretary within five (5) days after the filing of the complete version. . . . The expurgated version shall indicate any omissions with brackets or ellipses, and its pagination and depiction of text on each page shall be identical to that of the *in camera* version." 16 C.F.R. § 3.45(e).

It is ORDERED that Moore's motion for *in camera* treatment is DENIED because *in camera* treatment is improper for material that is not being proffered as evidence for the trial in this matter.

Moore is further ORDERED to comply with Commission Rules 3.22(b) and 3.45(e) and submit its motion to limit subpoena as "Subject to Protective Order," rather than as "*In Camera*."

ORDERED:



D. Michael Chappell
Administrative Law Judge

Date: February 3, 2009