

**ORIGINAL**

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



\_\_\_\_\_  
In the Matter of )  
 )  
OSF Healthcare System, )  
a corporation, and )  
 )  
Rockford Health System, )  
a corporation, )  
Respondents. )

DOCKET NO. 9349  
**PUBLIC**

**NON-PARTY CATERPILLAR INC.'S MOTION TO SET SCHEDULE  
FOR THE FILING OF ITS MOTION FOR *IN CAMERA* TREATMENT  
OF PROPOSED TRIAL EXHIBITS**

Caterpillar Inc. ("Caterpillar"), which is not a party to the above-captioned matter, respectfully requests this Court to grant its Motion to set a schedule for the filing of a motion for *in camera* treatment of proposed trial exhibits which Caterpillar recently learned are to be offered by Respondents as evidence in the hearing of the above matter.

**BACKGROUND**

1. On March 13, 2012, Respondent OFS Healthcare System sent Caterpillar a letter via regular U.S. mail providing notice to Caterpillar of Respondent's intent to offer confidential materials as evidence in this matter which Caterpillar produced in response to a Subpoena *Duces Tecum* ("notice letter"). Caterpillar did not receive Respondent's notice letter until March 19, 2012.

2. The *Code of Federal Regulations*, 16 C.F.R. § 3.45 (1999), provides that a third party be given "at least 10 days notice of the proposed use of such material." Accordingly, by regulation, Caterpillar's response would not be due until March 29.

3. The Scheduling Order in this matter sets the deadline for filing motions for *in camera* treatment of proposed trial exhibits for March 20, 2012. However, Caterpillar was not

aware of this order, as it is not a party, until the FTC provided it with a copy on March 21, 2012. Caterpillar is filing the present motion to clarify when its motion for *in camera* treatment should be filed.

4. Caterpillar has retained outside counsel in this matter as expeditiously as possible in order to file this motion and a motion for *in camera* treatment of proposed trial exhibits. Caterpillar asks that it be permitted to file its motion for *in camera* treatment of proposed trial exhibits ten days after receipt of the notice letter, to and including March 29, 2012.

5. Caterpillar is not filing this motion for purposes of delay, and the granting of this motion will not prejudice Respondents.

WHEREFORE, for all the foregoing reasons, Non-Party Caterpillar Inc. respectfully requests this Court to set the time for Caterpillar to file its motions for *in camera* treatment of proposed trial exhibits to and including March 29, 2012.

Respectfully submitted,

CATERPILLAR INC.



One of Its Attorneys

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## CERTIFICATE OF SERVICE

I, Erin Bolan Hines, certify that on March 22, 2012, I caused an original and one (1) copy of Non-Party Caterpillar Inc.'s Motion To Set Schedule For The Filing Of Its Motion For *In Camera* Treatment Of Proposed Trial Exhibits and Notice of Appearance to be filed by overnight courier and by electronic copy upon:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Room H-159  
Washington, DC 20580  
secretary@ftc.gov

I also certify that on March 22, 2012, I caused two (2) copies of the Motion to be served by overnight courier upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

I also certify that on March 22, 2012, I caused one copy of the Motion to be served by overnight courier upon:

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**UNITED STATES OF AMERICA  
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OSF Healthcare System )  
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DOCKET NO. 9349

**ORDER REGARDING CATERPILLAR INC.'S MOTION TO SET SCHEDULE FOR FILING  
OF MOTION FOR *IN CAMERA* TREATMENT OF PROPOSED TRIAL EXHIBITS**

After consideration of Non-Party Caterpillar Inc.'s motion to set schedule for filing of motion for *in camera* treatment of proposed trial exhibits, it is hereby ordered that Caterpillar's motion may be filed on or before March 29, 2012.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Administrative Law Judge