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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

Respondent.

Docket No. 9378

PUBLIC DOCUMENT

ORIGINAL

**RESPONDENT’S AND FREEDOM’S SUPPLEMENTAL JOINT MOTION FOR *IN*
CAMERA TREATMENT OF A NEWLY-PRODUCED TRIAL EXHIBIT**

Pursuant to Rule 3.45(b) of the Federal Trade Commission Rules of Practice, 16 C.F.R. § 3.45(b), the January 18, 2018 Scheduling Order¹ (“Scheduling Order”) and the December 20, 2017 Protective Order Governing Confidential Material (“Protective Order”), Respondent Otto Bock HealthCare North America, Inc. (“Ottobock” or “Respondent”) and FIH Group Holdings, LLC (“Freedom”) (collectively, “Movants”), by and through their counsel, seek *in camera* treatment for a newly-produced document, which is an updated version of PX03113. Movants’ motion for *in camera* treatment is fully supported by the sworn Declaration of Sean Zabaneh² attached hereto as Exhibit “A” (the “Zabaneh Declaration”). The original version of PX03113 was designated in Ottobock’s Second Motion for *In Camera* Treatment of Certain Trial Exhibits (“Ottobock’s Second Motion”) as containing both Ottobock’s and Freedom’s confidential information. Movants request that the Court grant the same *in camera* treatment to the updated

¹ As amended by Order dated April 26, 2018.

² The Declaration in Support of Respondent’s and Freedom’s Supplemental Joint Motion For *In Camera* Treatment of a Newly-Produced Trial Exhibit is made by Sean Zabaneh, counsel for Movants. The document for which Movants seek *in camera* treatment contains highly confidential information belonging to both Freedom and Ottobock. The Zabaneh Declaration provides an explanation as to how the updated PX03113 was produced, as well as its relation to Movants’ prior motions for *in camera* treatment. Sean Zabaneh is qualified to explain the confidential nature of the document pursuant to the Scheduling Order, at ¶ 7, dated January 18, 2018.

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version of PX03113 as it grants to the original, inaccurate version of PX03113, for the reasons set forth in Ottobock's Second Motion.

For the foregoing reasons, and those contained in the Zabaneh Declaration, Movants respectfully request that this Court grant *in camera* protection to the updated version of PX03113, which is attached as Exhibit 1 to the Zabaneh Declaration.

Respectfully submitted,

Dated: July 30, 2018

/s/ Andrew J. Rudowitz

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PROPOSED ORDER

Upon consideration of Respondent's and Freedom's Supplemental Joint Motion for *In Camera* Treatment of a Newly-Produced Trial Exhibit (the "Motion"), any opposition thereto, any hearing thereon, and the entire record in this proceeding,

IT IS HEREBY ORDERED, that the Motion is GRANTED.

IT IS FURTHER ORDERED, that pursuant to Rule 3.45(b) of the Federal Trade Commission Rules of Practice, 16 C.F.R. § 3.45(b), the updated version of PX03113, identified in the Motion and attached as Exhibit 1 to the Declaration of Sean S. Zabaneh, shall be subject to the requested *in camera* treatment and will be kept confidential and not placed on the public record of this proceeding.

Date: _____

D. Michael Chappell
Administrative Law Judge

EXHIBIT A

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OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of
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Docket No. 9378

PUBLIC DOCUMENT

**DECLARATION OF SEAN S. ZABANEH IN SUPPORT OF RESPONDENT’S AND
FREEDOM’S SUPPLEMENTAL JOINT MOTION FOR *IN CAMERA* TREATMENT
OF A NEWLY-PRODUCED TRIAL EXHIBIT**

I, Sean S. Zabaneh, Esq., make the following declaration under 28 U.S.C. § 1746.

1. I am outside counsel for Otto Bock HealthCare North America, Inc. (“Ottobock” or “Respondent”) and FIH Group Holdings, LLC (“Freedom”) (collectively, “Movants”).

2. I submit this declaration in support of Respondent’s and Freedom’s Supplemental Joint Motion for *In Camera* Treatment of a Newly-Produced Trial Exhibit (the “Motion”).

3. Counsel for the Center for Orthotic and Prosthetic Care (“COPC”) emailed Counsel for Movants and Complaint Counsel on July 16, 2018, stating that her client had inadvertently produced an inaccurate document identified as PX03113. Counsel for COPC explained that the mistake was only recently discovered and attached the updated, accurate version of a chart contained within PX03113. A true and correct copy of the July 16, 2018 Email with the updated version of PX03113 is attached hereto as **Exhibit “1”**.

4. The original version of PX03113 was designated in Ottobock’s Second Motion for *In Camera* Treatment of Certain Trial Exhibits (“Ottobock’s Second Motion”) as containing both Ottobock’s and Freedom’s confidential information. Ottobock’s Second Motion was

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supported by the Declaration of Scott Schneider, Ottobock's Vice President of Medical Affairs, Government Affairs, and Future Development.

5. Upon review of the original PX03113 and the updated PX03113, the revised chart in the updated PX03113 contains the same type of confidential information as the original PX03113. The updated PX03113 is deserving of *in camera* treatment for the same reasons set forth in Ottobock's Second Motion and the Declaration of Scott Schneider in support thereof.

I declare under penalty of perjury, that the above statements are true and correct.

This 30th day of July, 2018.

Washington, D.C.

/s/ Sean S. Zabaneh
Sean S. Zabaneh, Esq.

EXHIBIT 1

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**DOCUMENT FULLY REDACTED
AND WITHHELD PURSUANT TO
THE COURT'S JULY 27, 2018
ORDER**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 30, 2018, I caused a true and correct copy of the foregoing Respondent's and Freedom's Supplemental Joint Motion for *In Camera* Treatment of a Newly-Produced Trial Exhibit to be served via FTC E-Filing System and e-mail upon the following:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., N.W.
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Washington, DC, 20580

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Office of the Secretary
600 Pennsylvania Avenue NW
Washington DC, 20580

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600 Pennsylvania Ave., NW
Washington, DC, 20580

/s/ Andrew J. Rudowitz
Andrew J. Rudowitz, Esq.

Notice of Electronic Service

I hereby certify that on July 30, 2018, I filed an electronic copy of the foregoing Respondent's and Freedom's Supplemental Joint Motion for In Camera Treatment of a Newly-Produced Trial Exhibit, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
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I hereby certify that on July 30, 2018, I served via E-Service an electronic copy of the foregoing Respondent's and Freedom's Supplemental Joint Motion for In Camera Treatment of a Newly-Produced Trial Exhibit, upon:

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