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



In the Matter of:

IMPAX LABORATORIES, INC.,

a corporation.

Docket No. 9373

**NON-PARTY ENDO PHARMACEUTICALS INC.'S UNOPPOSED MOTION
FOR ACCESS TO POST TRIAL SUBMISSIONS**

Non-party Endo Pharmaceuticals Inc. (“Endo”) respectfully moves for access to the redacted portions of Complaint Counsel’s December 20, 2017 Post-Trial Brief (“Brief”) and Proposed Findings of Fact and Conclusions of Law (“Findings”) that reference or relate to the August 7, 2017 Settlement Agreement (“2017 Settlement”) between Endo and Respondent Impax Laboratories, Inc. (“Impax”). Endo requested these materials from Complaint Counsel on January 2, 2018. Impax consented to the disclosure. Complaint Counsel likewise does not object to the disclosure, but required Endo to file this motion given the *in camera* orders in effect in this action.

Endo has moved to intervene in the above-captioned action for the limited purpose of opposing (1) any proposed Findings related to the alleged competitive effects of the 2017 Settlement and (2) the nullification of the 2017 Settlement, or any remedy that would affect Endo’s rights under that agreement. To that end, Endo requests that it be permitted to review, in unredacted form, exactly what Complaint Counsel has asserted regarding the 2017 Settlement in their Brief and proposed Findings. If, as appears to be the case from the unredacted portions of these documents, the redacted information relates to, or purports to characterize, the 2017 Settlement itself, Endo has obviously seen that agreement.

Under Rule 3.45(b), material offered into evidence during an administrative hearing may

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“be placed *in camera* only (a) after a finding that its public disclosure will likely result in a clearly defined, serious injury to the person, partnership or corporation requesting *in camera* treatment or (b) after [a] finding that the material constitutes sensitive personal information.” 16 C.F.R. § 3.45(b). The 2017 Settlement was granted *in camera* status. See Oct. 23, 2017 Order on *In Camera* Treatment of Respondent’s Exhibits (granting *in camera* status to CX 3275, the 2017 Settlement). Per Paragraph 9 of the January 24, 2017 Protective Order entered in this action, *in camera* material includes in any “pleading, motion, exhibit or other paper filed...with the Secretary of the Commission...shall be filed *in camera*” and redacted from public filings. Jan. 24, 2017 Protective Order, ¶ 9. The portions of Complaint Counsel’s Brief and Findings that discuss the 2017 Settlement were therefore filed *in camera* and are redacted from the public versions of the filings.

Endo seeks access to redacted material in Complaint Counsel’s Brief and proposed Findings only to the extent such material discusses or relates to the 2017 Settlement. Endo was a party to the 2017 Settlement, so disclosure to Endo of information relating to the settlement will not result in any “serious injury” to Respondent Impax or Complaint Counsel—both of which have consented to disclosure. Specifically, Endo requests access to the following in unredacted form: (1) Section IV.B of Complaint Counsel’s Brief; (2) Paragraphs 1427-28, 1485-88, 1490, and 1492 of Complaint Counsel’s proposed Findings; and (3) any other portions of either the Brief or proposed Findings that reference or relate to the 2017 Settlement.

CONCLUSION

For the reasons stated herein, Endo respectfully moves for access to the redacted portions of Complaint Counsel’s Brief and proposed Findings related to the 2017 Settlement for the purpose of opposing any proposed Findings related to the alleged competitive effects of the 2017

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Settlement and the nullification of the 2017 Settlement, or any remedy that would affect Endo's rights under that agreement.

Respectfully submitted,

/s/ Christine Levin

George G. Gordon

Christine Levin

DECHERT LLP

2929 Arch Street

Philadelphia, PA 19104

Tel. 215.994.2000

Fax. 215.994.2222

george.gordon@dechert.com

christine.levin@dechert.com

*Counsel for Non-Party Endo
Pharmaceuticals Inc.*

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Docket No. 9373

**[PROPOSED] ORDER GRANTING NON-PARTY ENDO PHARMACEUTICALS INC.'S
UNOPPOSED MOTION FOR ACCESS TO REDACTED BRIEFING & FINDINGS**

Upon consideration of non-party Endo Pharmaceuticals Inc. (“Endo”) Motion for Access to Redacted Briefing and Documents, it is HEREBY ORDERED that Complaint Counsel provide to Endo the following unredacted, *in camera* materials: (1) Section IV.B of Complaint Counsel’s Brief; (2) Paragraphs 1427-28, 1485-88, 1490, and 1492 of Complaint Counsel’s proposed Findings; and (3) any other portions of either the Brief or proposed Findings that reference or relate to the 2017 Settlement.

ORDERED:

D. Michael Chappell
Administrative Law Judge

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2018, I caused a true and correct copy of the foregoing Motion to be served via the FTC E-Filing System, which will send notification of such filing to all counsel of record as well as the following:

Office of the Secretary
Federal Trade Commission
Constitution Center, 400 Seventh Street SW
Suite 5610
Washington, DC 20024

The Hon. Michael D. Chappell
Administrative Law Judge
Federal Trade Commission
Washington, DC 20580

/s/ Christine Levin
Christine Levin
DECHERT LLP
2929 Arch Street
Philadelphia, PA 19104
Tel. 215.994.2000
Fax. 215.994.2222
christine.levin@dechert.com

*Counsel for Non-Party Endo Pharmaceuticals
Inc.*

Notice of Electronic Service

I hereby certify that on January 03, 2018, I filed an electronic copy of the foregoing Non-Party Endo Pharmaceutical's Unopposed Motion for Access to Post Trial Submissions, with:

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

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on January 03, 2018, I served via E-Service an electronic copy of the foregoing Non-Party Endo Pharmaceutical's Unopposed Motion for Access to Post Trial Submissions, upon:

Bradley Albert
Attorney
Federal Trade Commission
balbert@ftc.gov
Complaint

Daniel Butrymowicz
Attorney
Federal Trade Commission
dbutrymowicz@ftc.gov
Complaint

Nicholas Leefer
Attorney
Federal Trade Commission
nleefer@ftc.gov
Complaint

Synda Mark
Attorney
Federal Trade Commission
smark@ftc.gov
Complaint

Maren Schmidt
Attorney
Federal Trade Commission
mschmidt@ftc.gov
Complaint

Eric Sprague
Attorney
Federal Trade Commission
esprague@ftc.gov
Complaint

Jamie Towey
Attorney
Federal Trade Commission
jtowey@ftc.gov

Complaint

Chuck Loughlin
Attorney
Federal Trade Commission
cloughlin@ftc.gov
Complaint

Alpa D. Davis
Attorney
Federal Trade Commission
adavis6@ftc.gov
Complaint

Lauren Peay
Attorney
Federal Trade Commission
lpeay@ftc.gov
Complaint

James H. Weingarten
Attorney
Federal Trade Commission
jweingarten@ftc.gov
Complaint

Edward D. Hassi
O'Melveny & Myers, LLP
ehassi@omm.com
Respondent

Michael E. Antalics
O'Melveny & Myers, LLP
mantalics@omm.com
Respondent

Benjamin J. Hendricks
O'Melveny & Myers, LLP
bhendricks@omm.com
Respondent

Eileen M. Brogan
O'Melveny & Myers, LLP
ebrogan@omm.com
Respondent

Anna Fabish
O'Melveny & Myers, LLP
afabish@omm.com
Respondent

Stephen McIntyre
O'Melveny & Myers, LLP
smcintyre@omm.com
Respondent

Rebecca Weinstein
Attorney
Federal Trade Commission

rweinstein@ftc.gov
Complaint

Garth Huston
Attorney
Federal Trade Commission
ghuston@ftc.gov
Complaint

Christine Levin
Attorney