ORIGINAL

PUBLIC

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

In the Matter of

ECM BioFilms, Inc.,
a corporation, also d/b/a
Enviroplastics International,
Respondent.

DOCKET NO. 9358

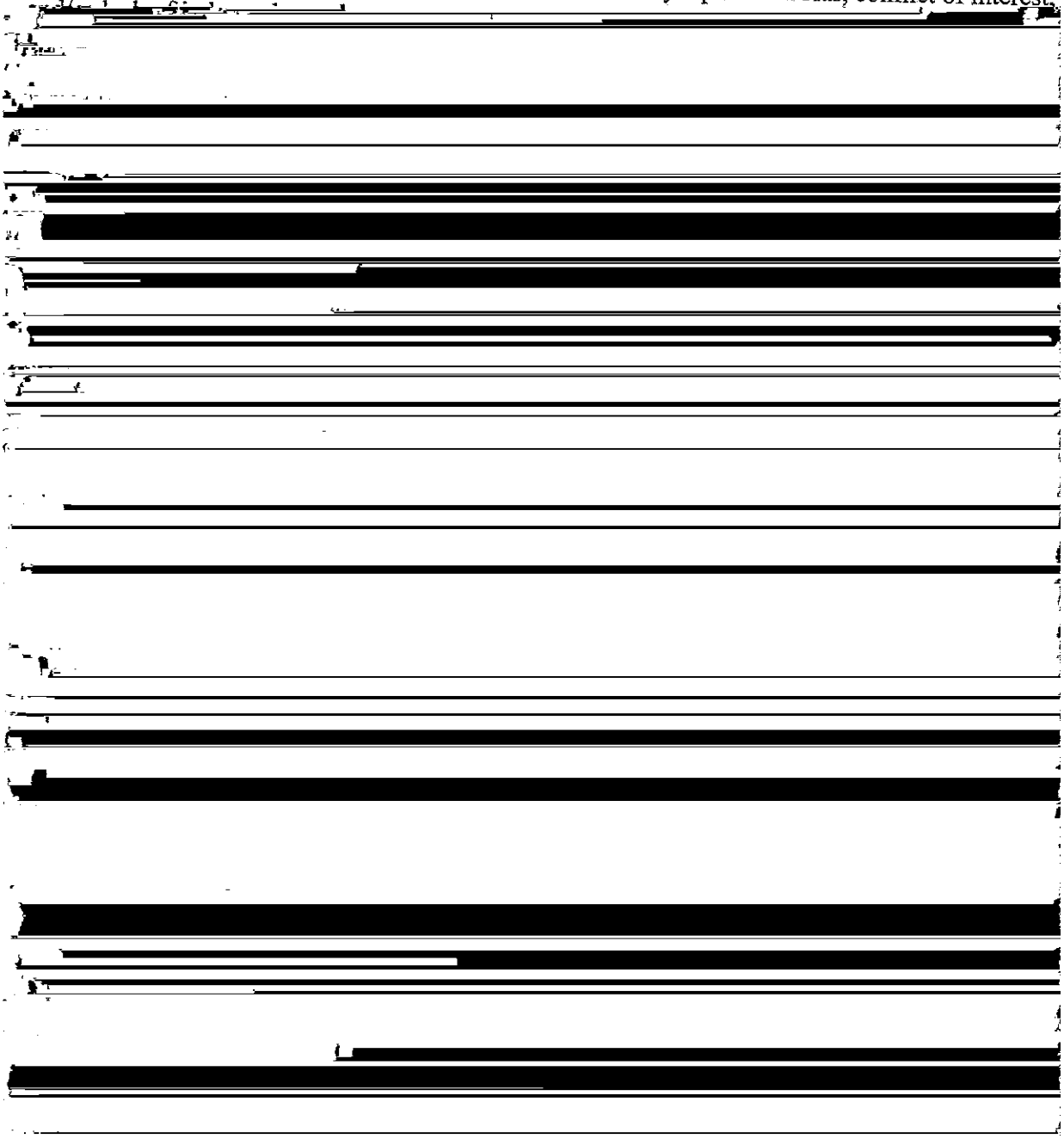
ORDER GRANTING MOTION TO SERVE SUBPOENA

[redacted]

II.

[redacted]

Respondent argues that further discovery by way of subpoena is appropriate at this time because discovery obtained thus far regarding Dr. McCarthy shows that he has a direct financial interest in the outcome of this litigation. Specifically, Respondent asserts that Dr. McCarthy receives royalties for patented technologies used by ECM's competitors in the biodegradable plastics market and that he receives research grant funding, through his university employer, from ECM's competitors. Respondent further contends that Respondent's competitors have "lobbied the FTC to act against ECM," Memorandum to Motion at 7, and that if Complaint Counsel succeeds in the instant action, ECM's competitors will gain market share and Dr. McCarthy stands to gain financially as a result. Respondent asserts that it is entitled, through the document subpoena, to probe the full extent of Dr. McCarthy's potential bias, conflict of interest,



exists to allow Respondent to complete its discovery into this issue through the proposed document subpoena. Accordingly, Respondent's Motion is GRANTED. 16 C.F.R. § 3.31A(d).

This is not an order to produce any documents, including documents that may have already been provided. Moreover, no witness can be ordered to provide documents that do not exist. This Order holds only that Respondent has demonstrated sufficient cause to allow