

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

Impax Laboratories, Inc.,)
a corporation.)

)

DOCKET NO. 9373

**ORDER GRANTING NON-PARTY ENDO PHARMACEUTICALS INC.’S
MOTION TO PRODUCE CERTAIN *IN CAMERA* MATERIALS TO MDL PLAINTIFFS**

Non-party Endo Pharmaceuticals, Inc. (“Endo”) moves for leave to produce a copy of the *in camera* testimony of Endo witness, Dr. Robert Cobuzzi, provided in the evidentiary hearing in the above-captioned proceeding, to the MDL Plaintiffs

¹ in the litigation pending in the Northern District of Illinois styled as *In re Opana ER Antitrust Litigation*, 14-cv-10150.² Endo explains that Dr. Cobuzzi’s testimony was requested in discovery in that litigation, and that Endo agreed to produce a copy subject to the confidentiality protections of the Protective Order in that case.

Neither Complaint Counsel nor Impax, the only parties in the ~~FTC 2526:26; Impax has~~ had more than ten business days’ notice of Endo’s motion and has raised no objection. *Cf.* 16 C.F.R. § 3.31 at Appendix ¶ 11 (requiring ten business days’ notice before, in response to a discovery request in another matter, a party may produce confidential material submitted by another party or a third party). Under these circumstances, we see no reason to prevent Endo

¹ The Trust Fund, Wisconsin Masons’ Health Care Fund, Pennsylvania Employees Benefit Trust Fund, National Union of Operating Engineers, Local 138 Welfare Fund and Mary Davenport; and Retailer Plaintiffs Corporation, Rite Aid Hdqtrs. Corp., CVS Pharmacy, Inc., Walgreen Co., The Kroger Co., Safeway, Inc., Grocery Company, L.P. and Albertson’s LLC.

² The pertinent testimony appears in the transcript of this administrative proceeding at Tr. 2526:14 through 2538:18 and at Tr. 2608:12 through 2623:19.

from releasing the testimony of its witness as described, and for the purpose set forth, in Endo's motion. Accordingly,

IT IS ORDERED that Non-Party Endo Pharmaceuticals Inc.'s Motion to Produce Certain *In Camera* Materials to MDL Plaintiffs is hereby **GRANTED**; and

IT IS FURTHER ORDERED that orders in this administrative proceeding providing for *in camera* treatment remain in effect for all other purposes.

By the Commission.

Donald S. Clark,
Secretary

SEAL:

ISSUED: November 1, 2018