

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

ARTHREX, INC.,

Plaintiff,

-vs-

Case No.: 2:11-cv-694-FtM-29SPC

PARCUS MEDICAL, LLC,

Defendant.

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**ORDER**

This matter comes before the Court on Defendant, Parcus Medical's Renewed Motion to File Under Seal Unredacted Amended Answer and Counterclaims in Response to Arthrex's Amended Complaint, for Limited Purpose of *In Camera* Inspection and Judicial Determination of Whether Sealing is Appropriate (Doc. # 88), filed on September 7, 2012. Defendant filed its initial Motion to File Under Seal Unredacted First Amended Answer and Counterclaims for Limited Purpose of *In Camera* Inspection and Judicial Determination of Whether Sealing is Appropriate (Doc. # 76) on August 23, 2012. Six days later, Plaintiff filed an Amended Complaint (Doc. # 81), thus making the issue regarding Defendant's First Amended Answer and Counterclaims (Doc. # 66) moot. In light of Plaintiff's filing of an Amended Complaint (Doc. # 81) and the Court's Order (Doc. # 89) dated September 12, 2012, Defendant, Parcus Medical renews its previously filed Motion for the same limited purpose of judicial determination. (Doc. # 76). Defendant incorporates its previous motion (Doc. # 76) into its renewed motion (Doc. # 88) in its entirety.

The decision to conduct an *in camera* review falls within the broad discretion of the Court. United States v. Zolin, 491 U.S. 554 (1989). Here, Defendant, Parcus Medical moves the Court to review, *in camera*, its unredacted Amended Answer and Counterclaims (Doc. # 87) in Response to Plaintiff, Arthrex's Amended Complaint. (Doc. # 88). Defendant states that it does not seek to file its unredacted Amended Answer and Counterclaims under seal because it believes that sealing is appropriate, but for the sole purpose of obtaining judicial determination as to whether Count V of Defendant's Counterclaim should be publicly filed *via* ECF or filed under seal. (Doc. # 88, p. 1). Pursuant to Defendant's initial Motion (Doc. # 76), Defendant has no meaningful choice other than to seek a judicial determination as to whether it should publicly file its Amended Answer and Counterclaim or place it under seal due to the previous threats by Arthrex to both Parcus Medical and its undersigned counsel of further litigation if any allegedly "confidential" information is filed. (Doc. # 76, p. 2).

Given the Court's discretion to use *in camera* review to make determinations regarding various aspects of the litigation process, the Court grants the Defendant leave to submit the unredacted Amended Answer and Counterclaims (Doc. # 87) for *in camera* review. The Court reserves ruling as to whether it is appropriate to file with the Court the Amended Answer and Counterclaims under seal until further review of the pleading.

Accordingly, it is now **ORDERED**:

- (1) Defendant, Parcus Medical's Renewed Motion to File Under Seal Unredacted Amended Answer and Counterclaims in Response to Arthrex's Amended Complaint, for Limited Purpose of *In Camera* Inspection and Judicial Determination of Whether Sealing is Appropriate (Doc. # 88) is **GRANTED**.

(2) The Court **RESERVES** ruling on whether it is appropriate to file the documents under seal with the Court.

(3) Defendant is to submit to the Court the unredacted Amended Answer and Counterclaims (Doc. # 87) no later than **Tuesday, September 25, 2012**, for *in camera* review. The unredacted Amended Answer and Counterclaims may be submitted via U.S. Mail, FedEx, or UPS to Judge Sheri Polster Chappell, United States Courthouse and Federal Building 2110 First Street, Fort Myers, FL 33901, Attn: Doug Kemp.

**DONE AND ORDERED** at Fort Myers, Florida, this 17th day of September, 2012.

  
SHERI POLSTER CHAPPELL  
UNITED STATES MAGISTRATE JUDGE

Copies: Counsel of Record