

United States District Court
Middle District of Florida
Jacksonville Division

**DEPUY SYNTHES PRODUCTS, INC.,
& DEPUY SYNTHES SALES, INC.,**

Plaintiffs,

v.

No. 3:18-cv-1342-HES-PDB

VETERINARY ORTHOPEDIC IMPLANTS, INC., ETC.,

Defendants.

VETERINARY ORTHOPEDIC IMPLANTS, INC.,

Counterclaimant,

v.

**DEPUY SYNTHES PRODUCTS, INC.,
& DEPUY SYNTHES SALES, INC.,**

Counter-Defendants.

Order

Before the Court are unopposed motions for leave to file items under seal summarized in the following chart. Docs. 405, 408, 410, 412, 418, 419, 425, 426, 427, 442, 450, 451.

Motion to Seal and Supplement	Sealed (S) Doc.	Public Doc. Redacted (R) Unredacted (UR) Placeholder (PH)	Presumption of Public Access Applies?
Sealing concerns exhibits supporting Fidelio's supplemental brief in support of motion to dismiss			
408 434	S 407-11 (Ex. B) S 407-12 (Ex. C) S 407-13 (Ex. D) S 407-14 (Ex. E) S 407-15 (Ex. F)	PH 407-2 (Ex. B) PH 407-3 (Ex. C) PH 407-4 (Ex. D) PH 407-5 (Ex. E) PH 407-6 (Ex. F) UR 434-1 (Ex. F)	Yes
Sealing concerns VOI's motion to exclude opinions and testimony of DePuy's experts and exhibits supporting the motion			
410 427 435	S 409-8 (motion) S 409-9 (Ex. 1) S 409-10 (Ex. 2) S 409-11 (Ex. 3) S 409-12 (Ex. 7)	PH 409 (motion) PH 409-1 (Ex. 1) PH 409-2 (Ex. 2) PH 409-3 (Ex. 3) PH 409-7 (Ex. 7) R 439 (motion) R 435-1 (Ex. 1) R 435-2 (Ex. 2) R 435-3 (Ex. 3) R 435-4 (Ex. 7)	Yes
Sealing concerns exhibits supporting VOI's motion in limine			
412 433	S 411-7 (Ex. 1) S 411-8 (Ex. 4)	PH 411-1 (Ex. 1) PH 411-4 (Ex. 4) R 433-1 (Ex. 1) R 433-2 (Ex. 4)	Yes
Sealing concerns DePuy's supplemental brief in response to Fidelio's motion to dismiss and supporting exhibits			
419 437	S 399-4 (brief) S 399-5 (Ex. 1) S 399-9 (Ex. 5) S 399-10 (Ex. 6) S 399-11 (Ex. 7) S 399-12 (Ex. 8)	PH 399 (brief) R 429 (brief) PH 429-1 (Ex. 1) PH 429-5 (Ex. 5) PH 429-6 (Ex. 6) PH 429-7 (Ex. 7) PH 429-8 (Ex. 8)	Yes
Sealing concerns exhibits to the declaration of Andrew Krause supporting DePuy's pretrial motions			
425	S 413-17 (Ex. 7) S 413-18 (Ex. 10) S 413-19 (Ex. 12) S 413-20 (Ex. 12) S 413-21 (Ex. 13) S 413-22 (Ex. 14)	PH 413-1 (Exs. 7, 10, 12-14) R 430-6 (Ex. 7) R 430-7 (Ex. 10) R 430-8 (Ex. 12) R 430-9 (Ex. 13) R 430-10 (Ex. 14)	Yes
Sealing concerns DePuy's motion to strike expert testimony			
426	S 415-1	PH 415 R 432	Yes

Sealing concerns exhibits supporting VOI's response to DePuy's motion to strike expert testimony			
442	S 441-13 (Ex. E) S 441-14 (Ex. H) S 441-16 (Ex. J)	PH 441-5 (Ex. E) PH 441-8 (Ex. H) PH 441-10 (Ex. J)	Yes
Sealing concerns DePuy's response to VOI's motion to exclude opinions and testimony of DePuy's experts			
450	S 443-1	PH 443	Yes
Sealing concerns DePuy's response to VOI and Fidelio's motion in limine			
451	S 444-7 (response) S 444-8 (Ex. R-7) S 444-9 (Ex. R-8) S 444-10 (Ex. R-9) S 444-11 (Ex. R-10) S 444-12 (Ex. R-11) S 444-13 (Ex. R-12)	PH 444 (response)	Yes
Sealing concerns Fidelio's response to DePuy's withdrawn motion to compel jurisdictional discovery			
405 438	S 404 (response)	R 406 (response) R 438-1 (response)	No
Sealing concerns DePuy's withdrawn motion to compel jurisdictional discovery and supporting exhibits			
418 436	S 396-1 (motion) S 396-4 (Ex. 3) S 396-6 (Ex. 5) S 396-7 (Ex. 6) S 396-8 (Ex. 7) S 396-10 (Ex. 9) S 396-11 (Ex. 10) S 396-13 (Ex. 12)	PH 396 (motion) R 428 (motion) PH 428-3 (Ex. 3) PH 428-5 (Ex. 5) PH 428-6 (Ex. 6) PH 428-7 (Ex. 7) PH 428-9 (Ex. 9) PH 428-10 (Ex. 10) PH 428-12 (Ex. 12)	No

The governing law is in Local Rule 1.11; the orders entered on April 9, 2019, Doc. 47, July 5, 2019, Doc. 90, and August 29, 2019, Doc. 106; and the appellate opinion decided on March 12, 2021, Doc. 253.

Applying that law to the circumstances presented by the movants, the Court **grants** the motions for the reasons stated in the motions and supplements. For sealing concerning the motion to compel, the Court **grants** the motions for the additional reason that the motion to compel was withdrawn and the Court therefore had no need to consider the sealed items.

The following items must remain sealed for the duration of this case, including any appeal:

S-Doc. 396-1 (motion)
S-Doc. 396-4 (Ex. 3)
S-Doc. 396-6 (Ex. 5)
S-Doc. 396-7 (Ex. 6)
S-Doc. 396-8 (Ex. 7)
S-Doc. 396-10 (Ex. 9)
S-Doc. 396-11 (Ex. 10)
S-Doc. 396-13 (Ex. 12)
S-Doc. 399-4 (brief)
S-Doc. 399-5 (Ex. 1)
S-Doc. 399-9 (Ex. 5)
S-Doc. 399-10 (Ex. 6)
S-Doc. 399-11 (Ex. 7)
S-Doc. 399-12 (Ex. 8)
S-Doc. 404 (response)
S-Doc. 407-11 (Ex. B)
S-Doc. 407-12 (Ex. C)
S-Doc. 407-13 (Ex. D)
S-Doc. 407-14 (Ex. E)
S-Doc. 409-8 (motion)
S-Doc. 409-9 (Ex. 1)
S-Doc. 409-10 (Ex. 2)
S-Doc. 409-11 (Ex. 3)
S-Doc. 409-12 (Ex. 7)
S-Doc. 411-7 (Ex. 1)
S-Doc. 411-8 (Ex. 4)
S-Doc. 413-17 (Ex. 7)
S-Doc. 413-18 (Ex. 10)
S-Doc. 413-19 (Ex. 12)
S-Doc. 413-20 (Ex. 12)
S-Doc. 413-21 (Ex. 13)
S-Doc. 413-22 (Ex. 14)
S-Doc. 415-1
S-Doc. 441-13 (Ex. E)
S-Doc. 441-14 (Ex. H)
S-Doc. 441-16 (Ex. J)
S-Doc. 443-1
S-Doc. 444-7 (response)

S-Doc. 444-8 (Ex. R-7)
S-Doc. 444-9 (Ex. R-8)
S-Doc. 444-10 (Ex. R-9)
S-Doc. 444-11 (Ex. R-10)
S-Doc. 444-12 (Ex. R-11)
S-Doc. 444-13 (Ex. R-12)

No earlier than January 3, 2023, the clerk must unseal Exhibit F to Fidelio's supplemental brief supporting its motion to dismiss, docketed as S-Doc. 407-15. Fidelio originally asked the Court to seal the item, *see* Doc. 408 at 2, but no longer asks the Court to seal the item, *see generally* Doc. 434, and has filed the item on the public docket, *see* Doc. 434-1.

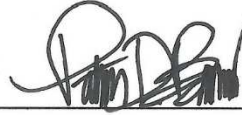
VOI provisionally filed under seal its response to DePuy's motion to strike certain expert testimony and Exhibit I to the response. *See* Doc. 441 (placeholder response); Doc. 441-9 (placeholder Exhibit I); S-Doc. 441-12 (sealed response); S-Doc. 441-15 (sealed Exhibit I). VOI explained the items contain DePuy's confidential information. Doc. 442 at 3 n.1. DePuy has filed no motion to maintain the items under seal. **No earlier than January 3, 2023**, the clerk must unseal the response, S-Doc. 441-12, and Exhibit I, S-Doc. 441-15,

The clerk must unseal DePuy's motion in limine, now filed under seal at S-Doc. 414-1. DePuy has filed the motion on the public docket. *See* Doc. 431.

VOI and Fidelio explained they prepared and would be filing redacted versions of DePuy's response to VOI and Fidelio's motions in limine (now filed as a placeholder at Doc. 444 and under seal at Doc. 444-7); Exhibit R-8 (a VOI email from Cassandra Dygert dated February 2, 2016; VOI_035042; now filed under seal at Doc. 444-9); and Exhibit R-12 (a VOI email from Steve McQueen dated August 19, 2013; VOI_032380; now filed under seal at Doc. 444-13). *See*

Doc. 451 at 3. No later than **December 31, 2022**, VOI and Fidelio must file the redacted versions.

Ordered in Jacksonville, Florida, on December 14, 2022.



PATRICIA D. BARKSDALE
United States Magistrate Judge