UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION, and STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, Plaintiffs, v. LIFEWATCH INC., a New York corporation, also d/b/a LIFEWATCH USA and MEDICAL ALARM SYSTEMS, and EVAN SIRLIN, individually and as an officer or manager of Lifewatch Inc., Defendants.	Case No. 15cv5781 Judge Feinerman Magistrate Judge Gilbert

PLAINTIFFS' MOTION TO SEAL

Plaintiffs, Federal Trade Commission ("FTC" or "Commission") and State of Florida, Office of the Attorney General, Department of Legal Affairs ("Florida"), hereby move this Court for an order to temporarily seal certain documents in this matter, including certain statements in Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction, and certain exhibits filed in support Plaintiffs' Motion for Preliminary Injunction. In support thereof, Plaintiffs state:

1. On March 12, 2014, the Commission issued a Civil Investigative Demand ("CID") directed to Defendant Lifewatch, Inc., requiring Lifewatch to answer interrogatories and produce various documents. Lifewatch provided answers and produced documents to the Commission pursuant to the CID.

2. Under the terms of Rule 4.10(g) of the Commission's Rules of Practice, 16 C.F.R. § 4.10(g), prior to disclosure in a court proceeding of certain material produced to the Commission pursuant to compulsory process such as a Civil Investigative Demand, the submitter must be afforded an opportunity to seek an appropriate protective or *in camera* order.

3. On June 30, 2015, Plaintiffs filed their Complaint for Permanent Injunction and Other Equitable Relief, initiating this matter. By letter on that same day, Plaintiffs' counsel notified counsel for Defendants that Plaintiffs intended to disclose, in connection with a motion for preliminary injunction, certain materials submitted to the Commission by Lifewatch, which may be subject to the procedures described in Commission Rule 4.10(g). Although Lifewatch designated many of the documents it produced as "Confidential," none of the documents Plaintiffs are including with its motion for preliminary injunction were so designated.

4. Despite not designating the documents as "Confidential," counsel for Lifewatch has indicated that it intends to seek a protective order as to at least some of the documents it produced to the Commission pursuant to the CID. The documents comprise one attachment (Att. V), and two pages in another attachment (Att. I) to Plaintiffs' Exhibit 1, Declaration of Roberto C. Menjivar.

5. Plaintiffs do not believe that any of the documents it is filing in support of its motion for preliminary injunction merit a permanent seal protecting the disclosure of the documents, *see, e.g.*, *Baxter Int'l, Inc. v. Abbott Labs.*, 297 F.3d 544, 547-48 (7th Cir. 2002).[1] Nevertheless, as an accommodation to allow Lifewatch to seek such protection from the Court, Plaintiffs agreed to file the documents under a temporary seal. Full unredacted versions of the attachments will be filed separately, and courtesy copies of the unredacted attachments will be

[1] Should Lifewatch file a motion for protective order, Plaintiffs intend to submit a substantive response in opposition.

provided to the Court and to opposing counsel.

WHEREFORE, Plaintiffs Federal Trade Commission and State of Florida respectfully request that the Court grant their Motion to Seal.

Respectfully Submitted,

JONATHAN E. NUECHTERLEIN
General Counsel

Dated: July 6, 2015

s/David A. O'Toole
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CERTIFICATE OF SERVICE

I, David A. O'Toole, hereby certify that on July 6, 2015, I electronically filed **PLAINTIFFS'MOTION TO SEAL,** with the Court using the CM/ECF system, which will automatically send copies to any attorney of record in the case. In addition, I provided a courtesy copy by electronic mail to:

Patrick J. Cotter, Greensfelder, Hemker & Gale, P.C.
Jason Sulzer, The Sulzer Law Group
Joseph Lipari, The Sulzer Law Group

Attorneys for Defendants Lifewatch, Inc. and Evan Sirlin

Respectfully Submitted,

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