

It is ordered, That the third party appeals from the examiner's rulings of January 3, 1972, denying motions to quash and to quash or limit subpoenas *duces tecum* be, and they hereby are, denied.

It is further ordered, That the request of appellants O'Donnell-Usen Fisheries Corp., Seafood Kitchens, Inc., Maine Fisheries Corp., and Rubenstein Foods, Inc., for oral argument on their appeals be, and it hereby is, denied.

OCEAN SPRAY CRANBERRIES, INC., ET AL.

Docket 8840. Order and Opinion, February 10, 1972

Order denying respondents' motions to remove case from litigation pending Commission's decision on another case. The matter is remanded to the hearing examiner for further proceedings.

ORDER AND OPINION DENYING MOTIONS TO REMOVE CASE FROM
LITIGATION

This matter is before the Commission upon two separate certifications of the hearing examiner both filed on January 26, 1972, the one certifying to the Commission a motion of respondent Ocean Spray Cranberries, Inc., to remove the case from adjudication and the other certifying the motion of respondent Ted Bates & Company, Inc., making the same request. Complaint counsel opposed Ocean Spray's request before the examiner. The hearing examiner recommended the motions be denied on the grounds stated by respondents but further suggested "that the Commission consider withdrawal of the case from adjudication for the purpose of permitting direct negotiations with the Commission for settlement by consent order."

Ocean Spray's motion, which is joined in by Ted Bates, requests removal of this matter from litigation pending the Commission's decision in *Firestone Tire & Rubber Company*, Docket No. 8818, a case which is before the Commission for decision on the merits. Respondents state that the only question of substance upon which the parties do not agree is "a limited area in the content of the 'corrective' advertisement" which respondents would disseminate upon a settlement of the proceeding. Respondents argue that the Commission's decision in *Firestone* will be extremely helpful in reaching a settlement by enunciating guidelines as to the criteria "for when corrective advertising is and is not warranted, and what is to be disclosed in such advertisements. * * *"

In the Commission's view it would be inappropriate to stay the proceeding in this case pending the outcome of the *Firestone* matter.