

Order denying motion by counsel for three respondents for continuance of oral argument before the Commission but without prejudice to the right of counsel to request a rescheduling of oral argument for reasons consistent with those set out in the denial order.

Appearances

For the Commission: *Everette E. Thomas, Richard F. Kelly, Alice C. Kelleher and Maureen L. McGill.*

For the respondents: *Jacob A. Stein, Stein, Mitchell & Mezines, Wash., D. C.*

²Section 5(1) of the Federal Trade Commission Act (15 U.S.C. Sec. 45(1) empowers district courts hearing civil penalty actions "to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of * * * final orders of the Commission."

ORDER DENYING MOTION TO CONTINUE DATE OF ORAL ARGUMENT

By motion filed Sept. 16, 1974, Jacob A. Stein, counsel for respondents Herbert Millstein, Peter W. Galarneau and George Edward Ommeret, moves to continue oral argument in the above-captioned matter, now scheduled for Oct. 16, 1974, on the ground that he must appear in a trial in the U.S. District Court for the District of Columbia which is scheduled to begin on Oct. 1 and which, it is estimated, will last three to four months. He concludes that this trial will "probably" prevent him from appearing before the Commission until sometime after Jan. 30, 1975. Complaint counsel oppose this motion suggesting that oral argument be held before Oct. 1 or that oral argument be waived as to Mr. Stein's clients.

As a general rule, the Commission schedules oral argument at its convenience and it is the duty of counsel for all parties to be present. However, recognizing that lawyers are often faced with irreconcilable scheduling conflicts, the Commission will for good cause, consider postponing oral argument to allow an attorney to meet a commitment in another forum. By this standard, the instant motion must be denied. Aside from being excessive *per se*, its request for three and a half months is based on a mere *probable* conflict of commitments.

Further, there is no reason to believe that the United States District Court for the District of Columbia will not, on sufficient advance notice, arrange the trial schedule of the criminal trial to which reference is made, to permit Mr. Stein to prepare for and to appear before the Commission for oral argument on this matter.

We suggest that counsel make every effort to meet the October 16 date and, if that proves unworkable, to request, in cooperation with the Secretary of the Commission and counsel for the other parties, a rescheduling at the earliest possible date thereafter. Taking cognizance of the importance of the District Court matter, the Commission will be flexible in considering a request for a postponement of thirty (30) days or less. Accordingly,

It is ordered, That the aforesaid motion be, and it hereby is, denied without prejudice to the right of counsel to request a rescheduling of oral argument for reasons consistent with the foregoing.

IN THE MATTER OF

GER-RO-MAR, INC., DOING BUSINESS AS SYMBRA'ETTE, ET AL.

Docket 8872. Interlocutory Order, Oct. 1, 1974

Order denying respondents' motion for reconsideration and modification of Commission order, or remand to the administrative law judge, or a stay of the order.