Interlocutory Orders, Etc.

DANIEL CHAPTER ONE
AND
JAMES FEIJO

Docket No. 9329, Order, October 16, 2009

Order denying motion to reschedule the Oral Argument.

ORDER DENYING MOTION TO RESCHEDULE ORAL ARGUMENT

On October 13, 2009, the Commission issued a Notice scheduling the Oral Argument in this matter for Thursday, December 3, 2009, at 1 p.m. Complaint Counsel have now filed a Motion requesting that the Commission reschedule the Oral Argument to December 10, 2009 or a later date. Complaint Counsel advised in the Motion that Leonard L. Gordon, the Director of the Commission's Northeast Regional Office, and Lead Complaint Counsel in this proceeding, will be out of the country for the ten days immediately preceding December 3, 2009. Complaint Counsel further advise that Respondents do not object to the Motion.

The Commission understands and is sympathetic to the timing concerns that Complaint Counsel cite in their Motion. However, the Motion does not indicate that Director Gordon's absence from the United States for the ten days preceding December 3 will either prevent him from participating in the Oral Argument or prevent Complaint Counsel from adequately preparing for the Oral Argument. Moreover, Respondents' Reply Brief must be filed by November 4, 2009, and, as a consequence of January 2009 revisions to in a number of the Commission Rules governing adjudicative proceedings in January of this year, Commission Rule 3.52(b)(2) now provides that the Commission "will schedule oral argument within 15 days after the deadline for the filing of any reply briefs." 16 C.F.R. § 3.52(b)(2). While the revised Rules technically do not apply to this proceeding -- because the Administrative Complaint was issued last year[1] -- the

[1] *See generally* Federal Trade Commission, *Interim Final Rules With Request for Comment*, 74 Fed. Reg. 1804 (January 13, 2009); *see also* Federal Trade Commission, *Final Rule*, 74 Fed. Reg. 20205 (May 1, 2009).

Commission has nevertheless determined to adhere as closely as possible to the post-briefing appellate timetables prescribed by the revised Rules. The Commission's determination to designate December 3rd as the date for the Oral Argument derives from that objective and related considerations. Accordingly,

IT IS ORDERED that Complaint Counsel's Unopposed Motion To Reschedule Oral Argument be, and it hereby is, denied.

By the Commission.

Interlocutory Orders, Etc.

DANIEL CHAPTER ONE
AND
JAMES FEIJO

Docket No. 9329, Order, November 16, 2009

Order giving Complaint Counsel and Respondent each 30 minutes to present their oral arguments.

ORDER REGARDING ORAL ARGUMENT

The Oral Argument on the Appeal which the Respondents have filed from the Initial Decision in this matter has been scheduled for Thursday, December 3, 2009, at 1:00 p.m., in Hearing Room 532-H of the Headquarters Building of the Federal Trade Commission, located at 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The Respondents and Complaint Counsel have now completed their briefing of the matter, and the Commission has determined that sixty minutes should be sufficient to satisfy the purpose of the Oral Argument; that is, "to emphasize and clarify the written argument appearing in the briefs and to answer questions." Commission Rule 3.52(h), 16 C.F.R. § 3.52(h). Accordingly,

IT IS ORDERED that Respondents and Complaint Counsel will each be allotted thirty minutes to present their respective arguments. As the appellants in this matter, Respondents will have the opportunity to open the argument, and to reserve up to five minutes of their time for rebuttal.

By the Commission.