same misrepresentations. . . . Similarly, Respondents used automatically generated profiles on the reper.com website when they began the next iteration of their business in 2010."). Such practices may continue unless the Final Order becomes effective. Issuing a stay would therefore disserve the public interest.

CONCLUSION

Having considered the factors set forth in Commission Rule 3.56(c), we conclude that John Fanning and Jerk, LLC have not met their burden for showing that a stay of the Final Order pending judicial review is warranted. Accordingly,

IT IS ORDERED THAT Respondents' Motions to Stay Enforcement of the Commission's Order Pending Review by the United States Court of Appeals for the First Circuit are **DENIED**.

By the Commission.

ECM BIOFILMS, INC.

Docket No. 9358. Order, May 29, 2015.

Commission order requesting both parties to file briefs with the Commission, limited to specific issues, that supplement the parties' respective statements made during oral argument.

COMMISSION ORDER SCHEDULING SUPPLEMENTAL BRIEFING AND DENYING CORRECTION REGARDING STATEMENTS MADE DURING ORAL ARGUMENT

This matter having been heard by the Commission upon the appeal of ECM Biofilms and the cross-appeal of Complaint Counsel and upon the respective briefs and oral arguments in support of their positions, the Commission has determined that supplemental briefing would assist it in resolving the issues presented. In accordance with Commission Rule 3.54, the

Commission directs supplemental briefing limited to the following issues:

A. Can the survey evidence in the record be interpreted as causal or experimental surveys with appropriate test and control groups? Would it be appropriate to do so? If so, please explain what inferences can be drawn from such an interpretation in light of relevant legal authority and statistical methods. If not, please explain why not.

B. In light of relevant legal authority and statistical methods, what weight should the Commission give to the results of descriptive surveys, which measure an attitude, characteristic, or belief that survey respondents hold, relative to the results of causal surveys or experimental surveys, which use test and control groups to measure the effect of a specific variable?

C. Is it possible to quantify the degree of convergence among the consumer surveys in the record in this case (APCO, Synovate, Frederick, and Stewart) or within any single survey? If so, please calculate the degree of convergence, if any, of these surveys. If not, please explain the significance of the inability to quantify convergence to an issue or issues on appeal.

Accordingly,

IT IS ORDERED THAT:

1. On or before June 22, 2015, ECM and Complaint Counsel shall file briefs, not to exceed 4,000 words (excluding any attachments), addressing *only* the foregoing issues;

2. On or before 14 days after service of the briefs described in Paragraph 1, ECM and Complaint Counsel may file responding briefs not to exceed 2,500 words (excluding any attachments); and

3. Attachments to briefs may include declarations from any experts who testified in this proceeding.

No extensions of time or word limits will be granted.

Additionally, we note that following oral argument, Complaint Counsel submitted a filing entitled Complaint Counsel's Correction Regarding Statements Made During Oral Argument. Respondent thereafter filed an Opposition arguing that Complaint Counsel's filing is not authorized under the Commission's Rules of Procedure. Given the Commission's order for supplemental briefing, the Commission finds Complaint Counsel's submission to be moot and has determined not to consider it.

Therefore,

IT IS FURTHER ORDERED THAT Complaint Counsel's Correction Regarding Statements Made During Oral Argument shall not be considered.

By the Commission.

Interlocutory Orders, Etc.

LABMD, INC.

Docket No. 9357. Order, June 15, 2015.

Commission order denying respondent's motion to disqualify Chairwoman Ramirez based upon statements made to members of Congress regarding the matter during adjudication before the Administrative Law Judge.

COMMISSION ORDER DENYING MOTION TO DISQUALIFY CHAIRWOMAN EDITH G. RAMIREZ AND STATEMENT OF CHAIRWOMAN RAMIREZ

By Commissioner Joshua D. Wright, for a unanimous Commission:[1]

Respondent LabMD, Inc. has moved that the Commission, pursuant to 16 C.F.R. § 4.17, disqualify Chairwoman Ramirez from further participation in this administrative proceeding. *See* Motion to Disqualify Commissioner Edith Ramirez (Apr. 27, 2015). Having considered all arguments and exhibits in support of, and in opposition to, the Motion, we deny the Motion.[2] We have also considered Chairwoman Ramirez's May 20, 2015

[1] The Commission approved this Order and Opinion on June 15, 2015. Chairwoman Ramirez did not participate, in accordance with Rule 4.17(b)(3)(ii). Commissioner Brill did not take part in the consideration or decision herein.

[2] Complaint Counsel filed an opposition to the Motion on April 30, 2015. On May 6, 2015, LabMD filed a "Motion to Strike Complaint Counsel's Opposition to Respondent's Motion to Disqualify Chairwoman Edith Ramirez or, In the Alternative, Motion for Leave to File Reply in Support of Motion to Disqualify Commissioner Edith Ramirez." LabMD argues that the Commission's Rules of Practice do not permit Complaint Counsel to file the Opposition because Rule 4.17 does not contain an express provision allowing responses to a disqualification motion. However, the plain language of the Commission's Rules of Practice provides otherwise. Complaint Counsel's Opposition was properly filed pursuant to Rule 3.22(d), which governs responses to "any written motion" and operates in conjunction with Rule 4.17 and other rules relating to specific motions. *See* 16 C.F.R. § 3.22(d). Accordingly, LabMD's motion to strike is denied. Although Rule 3.22(d) does not provide the moving party with the right to reply, the Commission grants LabMD leave to file a reply and has reviewed its Reply. The Commission also grants LabMD's Motion for Leave to File a Notice of Supplemental Authority in Support of LabMD, Inc.'s Motion to Disqualify Commissioner Edith Ramirez (May 15, 2015) and has carefully considered the attachments therein.